

Management Alert



New Jersey Governor Signs Executive Order Establishing Employee Misclassification Task Force

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Seyfarth Synopsis: On May 3, 2018, Governor Phil Murphy signed an Executive Order establishing the Task Force on Employee Misclassification, which is effective immediately. At the signing in Edison, New Jersey, Governor Murphy explained that this measure is intended to crack down on “unscrupulous contractors who engage in 1099 fraud.” The Governor’s message: “If you practice 1099 fraud, we’re either going to bring you into compliance or we’re going to put you out of business.”

Less than 24 hours after New Jersey became the tenth state to have a statewide paid sick leave law, Governor Murphy signed an [Executive Order](#) establishing the Task Force on Employee Misclassification. The Task Force is comprised of 12 members from various New Jersey administrative agencies, and is New Jersey’s latest measure aimed at increasing employee protections in what the Governor described as an ongoing effort to make New Jersey a model for the nation, both on the issue of misclassification and other employee protections.

Just prior to signing the Executive Order, Governor Murphy explained that his team had looked to other states with similar task forces, such as New York and Massachusetts. He also clarified that the purpose in creating the Task Force is not necessarily to create “more or better laws,” but rather to enforce existing laws. He was quick to add, though, that although the intention is not to create new law, if that’s what it takes, “we’re open to that.”

The Executive Order charges the Task Force with:

- a. Examining and evaluating existing misclassification enforcement by executive departments and agencies;
- b. Developing best practices to increase coordination of information and efficient enforcement;
- c. Developing recommendations to foster compliance, including education efforts; and
- d. Reviewing existing laws and procedures related to misclassification.

Employer Outlook

Companies who engage independent contractors in New Jersey should heed this as a strong message. Governor Murphy made two things clear about the creation of this Task Force:

1. New Jersey will be looking to “put some runs on the board early.” He stressed that he is looking to show his commitment to addressing misclassification not just in words, but in action. He added that he is looking for some early successes equivalent to a “98-mile-an-hour fastball just below the chin” to make a statement demonstrating the strength of this Task Force.
2. Governor Murphy stressed that this measure is intended to help New Jersey workers. But, significantly, he is also looking at this as a way for the State to make money.

Any company with independent contractors in New Jersey should review its classification of workers to ensure compliance. In the meantime, we will continue coverage of New Jersey’s legislative and executive initiatives.

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