

HB 2498 -1 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 3/4

WHAT THE MEASURE DOES:

Modifies standards applicable to certain determinations of whether individual is employee or independent contractor. Includes, as fifth factor necessary to classify individual as independent contractor, whether individual provides services for another person that are within usual course of other person's business.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Modifies weight of determination of whether individual provides services for another person that are within usual course of other person's business. Includes determination as subcomponent of one of four factors necessary to classify individual as independent contractor. Requires that four of six subcomponents be met to satisfy factor.

BACKGROUND:

Whether a particular individual is classified as an employee or an independent contractor has significant consequences for the individual, the business for which the individual provides services and a number of governmental programs. On its face, the test described in ORS 670.600 implicates personal income taxes, workers' compensation insurance and unemployment insurance.

According to Oregon's Interagency Compliance Network, independent contractors are not subject to employment laws, rules or protections provided to employees and improper classification can lead to unfair wage practices, increased business taxes, wrongful tax avoidance and underfunded worker benefits. Similarly, the National Conference of State Legislatures notes that a business must withhold income, Social Security and Medicare taxes from employees' wages, pay unemployment taxes and provide employees with workers' compensation insurance coverage. These obligations do not extend to independent contractors.

House Bill 2498 modifies the test used to distinguish between employee and independent contractors in several different settings.