

## SB 6276 would destroy part-time jobs, slow economic growth and increase costs for products and services

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### Key Findings

1. The state Legislature is considering SB 6276 that would seek to add additional regulations to independent and temporary workers.
2. SB 6276 would reclassify freelance workers as employees and adds full-time employee minimum wage and Labor and Industry restrictions to the independent worker.
3. SB 6276 would prevent independent workers from choosing when and how they want to work.
4. SB 6276 would effectively eliminate certain job types that can be performed only on a part-time basis.
5. Freelancers hired under a union collective bargaining agreement would be exempt from the work limits imposed by SB 6276.

### Introduction

Small businesses are the backbone of the American economy. In Washington state, small business owners employ 51% of the state's total workforce – or 1.3 million people.

In eight Washington counties (Grant, Pend Oreille, Lincoln, Okanogan, Garfield, Klickitat, Pacific, Wahkiakum), small businesses provide jobs for 80% to 100% of the workforce.

Typically, a small business is defined as a firm with fewer than 500 employees. In the state's largest city, Seattle, 94% of businesses have fewer than 50 employees, which is Washington state's official definition of a small business.

Throughout the state, even businesses with fewer than 20 employees' number in the hundreds of thousands.

Many of these businesses employ part-time, occasional or specialist workers on a temporary basis to supplement their full-time workforce. The ability to have a flexible schedule and work for several employers on a part-time basis, is sometimes the desired option for independent and temporary workers.

Not everyone wants to work full-time. The ability to work part-time and pursue other personal and family goals in life is an important value for hundreds of thousands of workers across the state.

The Washington Legislature is considering several bills that would impose new restrictions on temporary workers that would severely limit their employment choices. The proposed limits would increase employer costs, create artificial legislative barriers to hiring, and reduce worker wages.

One of the most harmful of these bills is SB 6276. This Legislative Memo reviews the bill and describes how it would limit work opportunities.

### Bill summary

Senate Bill 6276 would reclassify freelancers and independent workers as full-time employees, subjecting them to minimum wage rules and create a process for freelancers to file complaints with the state Labor and Industries (L&I) department.<sup>1</sup> The bill would also impose work limits on incorporated limited liability companies (LLC) and individuals covered by those entities

<sup>1</sup> SB 6276, "Concerning the payment of wages to freelance workers." introduced January 14th, 2020, at <https://app.leg.wa.gov/billsummary?BillNumber=6276&Year=2019>

for liability protection. L&I would require employers, after a complaint, to carry a bond to pay freelance workers and to sue if an employer fails to provide a bond within 10 days of the L&I enforcement requirement.

Currently, these work restrictions do not apply to those seeking temporary and freelance work opportunities.

SB 6276 would require employers to submit a pay statement for each freelancer they hire to L&I and give to L&I new enforcement authority over employers and freelancers where none exists today.

Freelancers hired under a union collective bargaining agreement would be exempt from the work limits imposed by SB 6276.

State government and municipal agencies would also be exempted from the requirements of the bill. Under the bill, only non-union, private-sector employers would be subject to the new restrictions.

## Bill analysis

SB 6276 is similar to California Assembly Bill 5 that took effect in California on January 1, 2020. Both SB 6276 and AB5 re-classify freelance workers as employees and place state restrictions on freelance workers that limit job opportunities.<sup>2</sup> By changing the definition of a freelance worker, SB 6276 would make it difficult for an independent worker from working part-time or on a temporary contract basis.

New gig-economy jobs such as rideshare and on-demand transportation companies like Uber and Lyft would be significantly affected. Many drivers work part-time and work, by choice, for several ride-share

companies. Under SB 6276, those flexible work opportunities would no longer be practical and would be effectively eliminated.

In California, Uber has filed an initiative that will be on the ballot this fall. The initiative would exempt their drivers from the requirements of AB5.<sup>3</sup> Additionally, there are several lawsuits that have been filed challenging the work restrictions imposed by AB5, including one filed by the trucking industry.<sup>4</sup> SB 6276, if enacted in Washington, would likely be subject to the same controversy and legal challenges, since it is substantively similar to AB5.

It is estimated that AB5's work restrictions will put 450,000 independent workers out of work in California.<sup>5</sup>

The hiring process for employees is often more in depth than the hiring process for independent workers and freelancers. The increased cost in hiring a full-time employee is due to the commitment by the employer to the employee to provide benefits and a level of job certainty.

With the additional limits imposed by SB 6276, including adding the right to sue an employer through Labor and Industries at taxpayer expense (the right to sue directly already exists) and the requirement of an expensive bond to hire temporary workers, the cost to the employer would go up substantially. This will translate into reduced wages for the temporary worker or higher prices for goods and services.

Minimum wage rules would be applied to temporary workers, again increasing the

2 AB5, "AB-5 Worker status: employees and independent contractors." signed into law September 19th, 2019, at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB5](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5); "CAPITAL IDEAS: Will California's Ban on Freelance Work Lead to Blue State Turnaround?" Kerry Jackson, Pacific Research Institute, accessed on February 17th, 2020 at [https://www.pacificresearch.org/capital-ideas-will-californias-ban-on-freelance-work-lead-to-blue-state-turnaround/?utm\\_source=Pacific+Research+Institute&utm\\_campaign=cfa214803a-Policy+Alert+021320&utm\\_medium=email&utm\\_term=0\\_54315d0e14-cfa214803a-223188185](https://www.pacificresearch.org/capital-ideas-will-californias-ban-on-freelance-work-lead-to-blue-state-turnaround/?utm_source=Pacific+Research+Institute&utm_campaign=cfa214803a-Policy+Alert+021320&utm_medium=email&utm_term=0_54315d0e14-cfa214803a-223188185)

3 "Uber, Lyft warn they'll take the fight over drivers' status to California voters" by Johana Bhuiyan, Liam Dillon, Margot Roosevelt, *Los Angeles Times*, accessed on February 16th, 2020, at <https://www.latimes.com/business/technology/story/2019-08-29/ab5-uber-lyft-newsom-lorena-gonzalez-ballot-tony-west>.

4 "Judge: California Can't Enforce AB5 Against Trucking" by Deborah Lockridge, HDT Trucking Info, accessed February 16th, 2020, at <https://www.truckinginfo.com/348933/judge-says-california-cant-enforce-ab5-against-trucking>.

5 "Uber, Postmates sue to block 'unconstitutional' California gig worker law" Reuters, Autoblog, accessed February 17th, 2020, at <https://www.autoblog.com/2019/12/31/ca-ab5-lawsuit-uber-postmates>.

cost to the employer. For temporary workers in areas outside Puget Sound, this increase in the wage rate would increase the cost to hire the temporary worker. As we have seen in the Puget Sound area with the high minimum wage, employers would either choose to lay off employees or not hire temporary workers.<sup>6</sup>

SB 6276 would also allow an independent worker to collectively bargain with the employer, which would remove competition in contract bidding. Once a class of independent workers has standardized contract rates, the cost of goods and services will go up and flexible job opportunities will be eliminated. This additional cost will be passed onto the consumer and result in fewer temporary jobs being available.

Directly related to SB 6276 is SB 6516, which proposes limiting the mandatory work week to 32 hours, even if workers want to work more hours at their current salary.<sup>7</sup> Since SB 6516 is linked to RCW 49.46.010, the part of state law which SB 6276 would alter to include freelance workers, it would effectively limit freelance work to 31 hours or less unless the employer pays time and a half for the time worked over 32 hours.

## Policy recommendation

Washington state has a broad small business sector that relies on a diverse and flexible workforce. Lawmakers should not impose new barriers to employment by restricting the type of workers employers can hire and increasing hiring costs.

Re-classifying temporary workers as full-time employees would create a segment of the

workforce that would be unable or unwilling to work under the new regulations.

Many freelancers that work on fixed bid contracts, particularly in the newspaper and media business, would no longer be able to work under proposed legislation. The effect would be to further burden newspapers, online media and independent journalism, a sector already hard hit by changes in technology and reader habits.

## Conclusion

SB 6276 would impose the same job-killing restrictions that AB5 has imposed on workers in California, and presumably, would spark a public outcry against arbitrary work limits similar to the response Washington lawmakers saw when they tried to limit hair stylists and other cosmetologists employment options in 2019.<sup>8</sup>

Proponents of SB 6276 claim their legislation is intended to help workers. That has not been the result in California. Hundreds of thousands of jobs could be eliminated as a result of AB5's work restrictions becoming law. SB 6276, in a similar fashion, would restrict a worker from choosing to work part-time or full-time. Many workers do not need or want full-time employment and the government should not be deciding what jobs they can and cannot accept. Employer costs would increase and they may no longer be able to offer flexible hours or freelance work at all.

For these reasons, passage of SB 6276 would not serve the public interest, and in fact this proposal would harm many part-time workers, their employers and the customers they serve.

*Mark Harmsworth is the director of the Center for Small Business at Washington Policy Center. Noting here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.*

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<sup>6</sup> "Seattle Restaurant Worker: I'm a Progressive, but the Minimum Wage Law Killed Jobs, Including Mine" by Matt Vespa, Townhall, accessed February 16th, 2020, at <https://townhall.com/tipsheet/mattvespa/2019/12/26/seattle-restaurant-worker-im-a-progressive-but-the-minimum-wage-law-killed-jobs-including-mine-n2558575/>.

<sup>7</sup> SB 6516, "Reducing the workweek to thirty-two hours unless the employee receives compensation for employment in excess of these hours at a rate not less than one and one-half times their regular rate," introduced January 14th, 2020, Washington state legislature, at <https://app.leg.wa.gov/billssummary?BillNumber=6516&Year=2019&Initiative=false>.

<sup>8</sup> "Washington hair stylists proved independent contractors can't be cut" by Gene Marks, *The Guardian*, accessed February 17th, 2020, at <https://www.theguardian.com/business/2019/feb/07/washington-hair-stylists-protest-independent-contractors-bill>.