



# New Jersey May Not Go Down Same Road As California With Gig Worker Proposal

Insights

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Things were starting to get dicey in the Garden State as the legislature debated a California-like proposal that would have caused serious problems for gig economy companies and other businesses utilizing contract labor. But a measure of good news emerged last Friday as Senate leadership announced there would be changes to the draft legislation to protect a greater number of independent contractors. While we still cannot be sure about the extent of the changes and whether the resulting amendments will permit the typical gig economy company to continue business-as-usual, there is reason for optimism that the state will look to balance both the interests of workers and the needs of business when it comes to legislation in this area.

While New Jersey has employed the ABC test for determining contractor misclassification since a 2015 state Supreme Court decision, it wasn't until California's infamous *Dynamex* decision in 2018 that the nation seemed to take notice of how greatly this standard impacted the gig economy. California's legislature followed up in 2019 by passing legislation that not only codified the ABC test but took it several steps further. And things seem to be headed from bad to worse across the country: as our blog noted last month, a string of other states (New York, Illinois, Wisconsin, Oregon, and Washington, at a minimum) are lining up similar legislative proposals that could make 2020 a particularly troublesome year.

New Jersey seemed ready to join those states. As recently as early last week, the state Senate appeared poised to pass a measure cracking down on misclassification by expanding the state's definition of "employee" to include those who aren't typically in the office or "place of business" of the business. But an upswell of criticism emerged from the business community, pointing out the dramatic impact such a piece of legislation could have on New Jersey's economy and the daily lives of hundreds of thousands of workers who preferred the freedom and flexibility afforded them by contractor status.

Given the news that emerged from Trenton late Friday, it appears the protests may have resonated with lawmakers. As reported by NJ.com, Senate President Stephen Sweeney announced the proposed legislation would be changed to make sure independent contractors and freelancers would be protected. "The amendments to the bill will continue to ensure the ability of legitimate independent contractors to pursue their work at the same time they safeguard against misclassification," said Sweeney.

Again, we can't be sure the revised legislation will carve out protections for typical gig economy workers, but at least the matter is now up for renewed debate. We will continue to monitor the status of New Jersey's contractor legislation, and the proposals raised in other states, and provide updates as necessary.

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