

## Department of Planning and Budget

### 2022 Fiscal Impact Statement

**1. Bill Number:** HB529

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Batten

**3. Committee:** Commerce and Energy

**4. Title:** Labor and employment; misclassification of workers.

**5. Summary:** Establishes criteria for classifying the difference between employees and independent contractors based on either (i) the common law 20-factor test established in Internal Revenue Service Ruling 87-41, (ii) an applicable determination of the Internal Revenue Service, or (iii) satisfaction of specific criteria for classifying a person as an independent contractor as described in the bill.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** Indeterminate. See Item 8

**8. Fiscal Implications:** This fiscal impact estimate is preliminary.

According to the Department of Taxation, this may have an indeterminate, negative general fund revenue impact beginning in FY 2023. The extent to which decoupling Virginia from the IRS's latest guidance for determining whether a worker is an employee or independent contractor will have on such determinations for Virginia purposes is unknown. In addition, it is unknown to what extent employers would utilize the mechanism set forth in this bill to ensure workers are, by default, deemed independent contractors for Virginia purposes, and preclude the necessity to utilize IRS guidance in such circumstances. To the extent that it results in fewer workers being deemed employees for Virginia purposes, this bill would have an unknown negative revenue impact.

In addition, the extent to which this bill may impact other state programs and workers within Virginia is unknown. This bill would not impact federal and state programs that are dependent on the federal rules with respect to the classification of workers.

The Department of Labor and Industry (DOLI) relies on worker classification to determine if workers are employees, and therefore subject to employee protection regulations. Impact estimates from DOLI are not yet available.

**9. Specific Agency or Political Subdivisions Affected:** Department of Taxation, Department of Labor and Industry

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None