

Legislature needs to stop chaos on independent contractors

BY ALLAN ZAREMBERG

Special to The Sacramento Bee

August 13, 2018 02:00 PM

Updated August 13, 2018 02:00 PM

California is home to nearly two million residents who choose to work for themselves. As pillars of the workforce, these independent contractors are part of virtually every industry in the state including child care, healthcare, insurance, financial services, construction, technology and transportation.

[A recent California Supreme Court ruling](#), however, has called into question the ability of these independent contractors to continue to work for themselves in their chosen professions. The practical consideration is whether a business and its associated workers have an employee-to-employer relationship or not. In such a relationship, the state regulates working conditions; independent contractors determine for themselves when and how they perform their jobs.

Because of the potential disruption, the business community is asking the Legislature to immediately limit the court's ruling to the workers directly involved in the Dynamex case and not have the decision apply to other contractors for the next two years.

The Dynamex decision created a new test that assumes workers are employees. This occurred because the company changed its workers' status from employees to independent contractors without a significant change in circumstances. The workers sued to regain their status as employees, and the court agreed. But what may have been an appropriate outcome for Dynamex employees has much broader implications for many different types of independent contractors and self-employed professionals, and jeopardizes the businesses that rely on their services. This includes on-demand services such as transportation, child care and health care, as well as music instructors, insurance agents and physicians.

Although the justices may have had all the necessary facts to make an appropriate decision in the Dynamex situation, they could not consider all the other workers, businesses and consumers who rely on the independent contractor business model. The appropriate role of the Legislature is to determine the broad-based rule beyond what was decided by the court

It is important to note that the court based its ruling on a government regulation that was last reviewed before invention of the smart phone. The Industrial Welfare Commission, which was established in 1913 to regulate hours, wages and working conditions, created the rule. But it has not been funded since the Gray Davis administration and the commission could never have imagined an on-demand economy powered by mobile devices. It seems obvious that it is time for the state to fund and reconvene the commission to update this obsolete regulation.

With all that is at risk for workers and our economy, the Legislature should act quickly.

Allan Zaremborg is president and CEO of the California Chamber of Commerce. He can be contacted at azaremborg@calchamber.com.