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Breaking the Benefits Barrier: Florida's Path to Portable Benefits

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Executive Summary

Florida's independent workforce of nearly 890,000 documented contractors represents a vital and growing segment of the state's labor force. While these contractors value their independence and flexibility, outdated regulations prevent businesses from offering them benefits without risking worker misclassification. Without access to employer-sponsored benefits, these workers lack crucial financial safeguards like health insurance, retirement savings, and paid time off that traditional employees routinely receive through their employers.

Rather than following California's harmful reclassification approach, Florida can adopt an innovative portable benefits framework that preserves contractors' flexibility while expanding access to essential benefits. Under this model, private entities could voluntarily contribute to portable benefit programs for independent contractors without triggering traditional employment relationships. These benefits would follow contractors across multiple clients and platforms, reflecting modern workforce dynamics. Critical to this framework is explicit statutory language stating that providing these benefits does not affect employment classification under state law.

The Rise of Independent Contracting

Independent contractors are the backbone of America’s twenty-first-century economy. According to some estimates, 72.7 million Americans worked as independent contractors in 2024,¹ nearly double the estimate of 38.2 million in 2020.² Within this growing workforce, the number of full-time independent contractors who derive their primary income from independent work surged 91% between 2020 and 2023.³

Independent contractors operate in various roles as tutors, delivery drivers, electricians, and nutritionists. Unlike traditional employees, independent contractors operate as autonomous businesses, maintaining control over their work methods, schedules, and client relationships. Independent contractors represent a distinct classification of workers who choose to contract out their skills and services to a business rather than serve as traditional employees who report directly to employers.

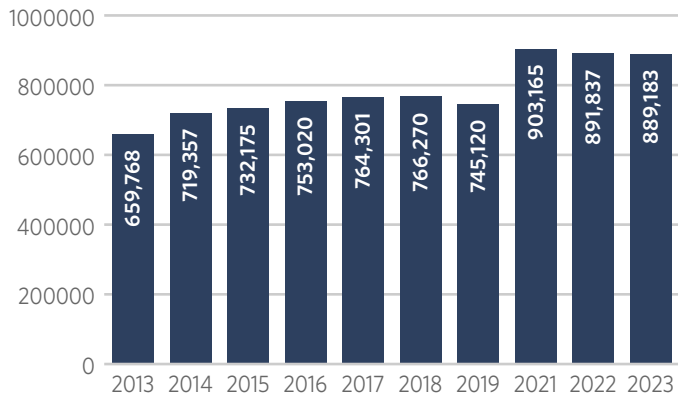
Americans choose to work as independent contractors for many distinct reasons. The most widely reported is flexibility, with 79% of contractors citing this as the cardinal reason they choose contracting over traditional employment.⁴ Others prefer the ability to choose which projects to take on and the ability to work for multiple clients rather than being tied to a single employer.⁵ Contractors also cite the ability to earn additional income on top of a traditional job as a motivation for working as an independent contractor.⁶

Florida's Independent Workforce Landscape

Florida’s robust independent contractor workforce of nearly 890,000 documented flexible workers represents a vital and growing segment of the state’s labor force,⁷ offering businesses unprecedented flexibility while creating diverse opportunities for skilled professionals. This dynamic labor force spans industries from technology and healthcare to construction and creative services, enabling companies to scale their operations rapidly and access specialized expertise without the long-term commitments of traditional employment.

The rising prevalence of independent contractors in Florida reflects broader shifts in the modern workplace. As a leader in the gig economy revolution, the state can embrace digitally mediated independent contracting, attracting talent and businesses seeking a more agile workforce model.

Figure 1: Growth of Independent Contractors in Florida⁸



Source: United States Census Bureau, "ACS 1-Year Estimates Public Use Microdata Sample."

The explosive growth of independent contracting across Florida’s metropolitan hubs reflects the sector’s increasing economic clout, with Orlando witnessing a staggering 56% surge, Miami close behind at 52%, and Tampa recording a 32% increase between 2018 and 2023.⁹ Urban centers best showcase the lucrative potential of independent work, as skilled contractors in Miami command an average annual income of \$53,850, while their counterparts in Tampa and Orlando earn \$45,232 and \$39,554, respectively.¹⁰

Figure 2: Independent Contractor's Average Annual Income by Location¹¹

Year	Miami	Tampa	Orlando
2023	\$53,850	\$45,232	\$39,554
2022	\$53,322	\$39,601	\$39,325
2021	\$47,814	\$40,067	\$39,549
2020	\$45,610	\$37,691	\$36,577
2019	\$43,283	\$37,091	\$34,200
2018	\$37,757	\$34,111	\$30,716

Source: Fiverr, "Freelance Economic Impact Report."

Most notably, the average annual income for Miami’s independent contractors matches or surpasses the city’s per capita income, challenging traditional assumptions about the financial instability of contract work.¹² This trend signals a fundamental shift in the region’s labor market, where independent contracting is evolving from an alternative work arrangement into a preferred career path for many skilled professionals.

Economic Impact On Florida Businesses

Florida leads the nation in the proportion of independent contractors as a share of its workforce, ahead of California, Texas, and New York.¹³ While app-based workers, like rideshare drivers, represent a significant segment of Florida's flexible labor pool, they are just one facet of the state's diverse independent labor force.

Independent contractors are crucial to Florida's workforce, and their impact extends far beyond the narrow scope of "gig work." While the "gig economy's" rise is typically associated with food delivery or ride-share drivers, these workers only represent a fraction of the professionals who choose a more flexible form of earning income. Florida's independent contractors span diverse professional sectors, with 31% of contractors working in the Professional and Business sectors and 22% in the Transportation and Utilities sectors.¹⁴ While one-third of contractors use this work to supplement existing income¹⁵ and benefits from primary employment, the landscape is evolving – now 10% of independent contractors rely exclusively on contracting for their livelihood.¹⁶

Independent contractors across all sectors provide small businesses with an affordable source of seasonal or project-specific labor without incurring the recruitment and hiring costs associated with full-time employees. These additional expenses, such as payroll taxes, workers' compensation coverage, and unemployment, can increase the total cost of a new employee by 25-40%.¹⁷ Flexibility is essential for small businesses operating on tight margins, particularly in Florida's tourism sector, where small hotels and resorts utilize specialized contractors during peak seasonal demands.¹⁸ The construction industry similarly depends on contractors who can immediately apply their expertise to specific project phases without requiring extensive training or onboarding, allowing businesses to scale their workforce efficiently as needed.

The Benefits Access Paradox

The thriving independent contractor model faces a critical paradox in today's regulatory landscape: despite its growing economic significance and widespread worker preference, structural barriers prevent these professionals from receiving affordable work-related benefits like health insurance and retirement plans. While traditional employees typically receive comprehensive benefits packages through their employers, independent contractors are excluded from these crucial safety nets due to their employment classification. The crux of this problem lies in outdated regulations that create a precarious situation for businesses – any attempt to provide benefits risks triggering employee classification

tests, potentially resulting in severe financial penalties and legal complications.

This regulatory framework creates an artificial and unnecessary divide, effectively forcing businesses to withhold benefits they would willingly provide to their independent contractors. The situation reveals a stark misalignment between modern workforce dynamics and legacy labor regulations, leaving a growing segment of Americans caught in a benefits gap that serves neither businesses nor workers.

Lessons From California: Reclassification Risks

As a solution, some policymakers have advocated for mandatory reclassification of independent contractors as employees. Rather than expanding access to benefits, this approach often produces unintended consequences that harm the workers these policies aim to protect. When businesses are forced to reclassify independent contractors as employees, they face substantially higher operational costs in addition to providing health and retirement benefits. These compulsory changes can increase labor costs by 25-40%,¹⁹ forcing small businesses to hike prices, reduce their workforce, or shut down completely. Many contractors end up worse off – often with less income and still no benefits.

Recent evidence from California confirms these fears. In 2019, California's Assembly Bill 5 (AB5) established the nation's strictest criteria for classifying workers as independent contractors, requiring all three conditions of an "ABC test" to be met.²⁰

Proponents of the law intended to help independent contractors gain access to traditional employment benefits and protections by forcing companies to reclassify them as employees. Rather than adjusting the composition of California's workforce to be comprised of more employees, self-employment dropped by 10.4%, and overall employment dropped by 4.4% in related occupations.²¹

The impact of AB5 extends far beyond app-based platforms such as Uber and DoorDash, creating significant legal issues for California's trucking industry as well. The trucking industry is built on contracting drivers who own and operate their own commercial vehicles. Following the passage of AB5, trucking owner-operators now face reclassification that can drive up shipping costs for carriers or truncate shipping capacity by incentivizing drivers to leave the state for areas with preferable classification laws.²²

The unintended consequences of AB5 highlight how rigid classification frameworks can destabilize established business relationships and reduce opportunities for independent workers. While California's experience demonstrates the pitfalls of man-



datory reclassification at the state level, the challenge of balancing worker protections and the flexibility of independent contractors extends to the federal arena.

The Federal Regulatory Landscape

At the federal level, the classification of independent contractors has been subject to a regulatory tug-of-war that has left businesses and workers seeking clarity. In 2021, the Trump administration issued guidance on independent contractor classification aimed to provide businesses, independent contractors, and employees greater certainty.²³ Under this rule, companies could determine who is an independent contractor based on the worker's control over their work and their opportunity for profit and loss.²⁴ However, in early 2024, the Biden administration rescinded this approach, reverting to the Obama-era standards. The new rule requires companies to use six additional ambiguous factors to determine whether a worker is an employee or a contractor, creating subjective outcomes based on differing opinions among judges.²⁵

This ongoing regulatory uncertainty surrounding worker classification has created significant challenges for both businesses and independent contractors. The constant shifts in federal guidance, state regulations, and court interpretations have made it increasingly difficult for companies to engage with independent contrac-

tors confidently. This regulatory instability has led many businesses to avoid contractor relationships altogether, even when such arrangements would be mutually beneficial.

The consequences of this uncertainty extend beyond mere business operations. Many Americans seeking flexible work arrangements are pushed toward traditional employment models that may not align with their personal circumstances or professional goals. Parents requiring flexible schedules to manage childcare, caregivers balancing work with family responsibilities, and individuals pursuing educational opportunities often find the rigid structure of traditional employment incompatible with their needs.

The solution is far easier than navigating this amorphous federal labyrinth. State legislatures can authorize portable benefits programs that allow companies to provide certain benefits without triggering an employer-employee relationship. These benefits are portable, meaning they are owned by the contractor and follow them as they move between different projects. Under such programs, companies contribute a fixed amount per hour or percentage of earnings to a dedicated benefits fund for each contractor. The contractor can then use these funds for health insurance, retirement savings, paid time off, or other benefits traditionally limited to employees.

This approach has several key advantages: contractors maintain their independence while gaining access to crucial benefits; companies can support their workforce without risking misclassi-

fication; and the administrative burden is handled by the benefits program rather than individual businesses. Some programs also allow multiple companies to contribute to a single contractor's benefits package, recognizing that many gig workers earn income from multiple platforms or clients.

Portable Benefits: A Tailored Solution

Given the ongoing challenges at the federal level and the need to offer independent contractors a degree of benefits, lawmakers in Florida could consider following Utah's lead in clearing a way for a portable benefits program that preserves flexibility while expanding access to essential benefits for contractors. Under Utah's innovative model, contributions to a dedicated benefits fund do not trigger a traditional employer-employee relationship. These portable benefits are tied to the individual contractors rather than the employer, moving with them across jobs, contracts, and platforms. Following Utah's framework, portable benefits should encompass a range of essential benefits, including retirement savings, paid time off, and paid sick leave.²⁶

DoorDash's pilot program in Pennsylvania highlights strong satisfaction under this approach, with 89% of the participants reporting that the program was beneficial and 59% reporting they would feel more financially secure if the program was made permanent.²⁷ Perhaps most telling, 82% of participants preferred keeping their current flexibility with portable benefits instead of trading for employment in exchange for increased benefits that would limit their independence.²⁸

Critical to the portable benefits framework is explicit statutory language stating that providing portable benefits does not trigger employment reclassification under state law. The legislation should clearly define that participation in portable benefits programs is not a factor in worker classification determinations at the state level. In Utah, for example, Senate Bill 233 explicitly stated that participating in a portable benefits program "may not be used as a criterion for determining a person's employment classification."²⁹ This safe harbor provision gives businesses the confidence to participate without fear of inadvertently converting contractors into employees.

For portable benefits programs to be effective, they should be voluntary for corporations to allow for market dynamics to create the best package of benefits for contractors. This market-driven approach encourages companies to develop competitive benefits offerings that attract and retain top talent in the contractor workforce. Companies might offer enhanced contribution rates, additional benefit categories, or lower qualification thresholds as they compete for workers. The voluntary nature also allows businesses to test different benefit structures and adapt their offerings based on worker preferences and market conditions.

Policy Principles

Authorize Portable Benefits in Florida: The Florida Legislature should enact legislation enabling private entities to offer portable benefits that workers can maintain, regardless of their employment status or relationship with multiple employers. The legislation should explicitly state that providing portable benefits to independent contractors shall not be considered evidence of an employment relationship in any classification determination under state law. This framework would empower businesses to support their independent workforce while maintaining clear legal distinctions between employees and contractors.

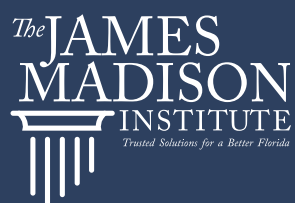
Voluntary Over Mandated: Portable benefits programs must remain voluntary for private entities to foster market competition and innovation in benefit design. The state should not mandate participation in portable benefits programs or decide which benefits should be provided. Instead, lawmakers should allow companies to develop and test benefit structures that best serve their contractor workforce and business needs.

References

- 1 MBO Partners, “2024 State of Independence in America Report,” Available Online: <https://www.mbopartners.com/state-of-independence/>
- 2 Andrew Karpie, “MBO Partners’ 10th Annual ‘state Of Independence In America’ Report About Independent Workers Gives Covid-Era Snap-shot,” *Spend Matters*, December 11, 2020.
Available Online: <https://spendmatters.com/2020/12/11/mbo-partners-publishes-10th-annual-state-of-independence-in-america-report/>
- 3 Steve King, “The Surge in Full-Time Independent Workers,” *Small Business Labs*, November 14, 2023. Available Online: <https://www.smallbizlabs.com/2023/11/the-surge-in-full-time-independent-workers.html#:~:text=Twenty%2Dsix%20million%20independent%20workers,as%20an%20independent%20is%20mainstream>
- 4 Liya Palagashvili, “Flexible Benefits for a Flexible Workforce: Unleashing Portable Benefits Solutions for Independent Workers and the Gig Economy,” *Mercatus Center*, February 3, 2023.
Available Online: <https://www.mercatus.org/research/policy-briefs/unleashing-portable-benefits-solutions>
- 5 Mark Steber, “1099 vs. W-2: Is it better to be paid 1099 or W-2?” *Jackson Hewitt*, August 2, 2024.
Available Online: <https://www.jacksonhewitt.com/tax-help/tax-tips-topics/personal-finance-savings/is-it-better-to-be-paid-1099-or-w-2/>
- 6 TransUnion, “More Than One-Third of Gig Workers Rely on Gig Work as Primary Source of Income,” October 15, 2024. Available Online: <https://newsroom.transunion.com/more-than-one-third-of-gig-workers-rely-on-gig-work-as-primary-source-of-income/#:~:text=Over%2060%25%20of%20gig%20workers,more%20than%20%245%2C000%20per%20month>
- 7 United States Census Bureau, “ACS 1-Year Estimates Public Use Microdata Sample,” 2023.
Available Online: <https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2023&cv=COW&rv=ucgid&wt=PWGTP&g=0400000US12>
- 8 Ibid.
- 9 Fiverr, “The Skilled Independent Workforce: Sizing the Market in the United States,” May 2024.
Available Online: https://npm-assets.fiverrcdn.com/assets/@fiverr/freelance_impact_perseus/freelance-economy-2024.383cbc1.pdf
- 10 Ibid
- 11 Fiverr, “Freelance Economic Impact Report.” Available Online: <https://www.fiverr.com/freelance-impact>
- 12 U.S. Census Bureau, “2023 American Community Survey 1-Year Estimates,”
Available Online: <https://www.census.gov/quickfacts/fact/table/miamicityflorida/INT100222>
- 13 Ahu Yildirmaz, Mita Goldar, and Sara Klein, “Illuminating the Shadow Workforce: Insights Into the Gig Workforce in Businesses,” *ADP Research Institute*, February 2020. Available Online: <https://www.adp.com/-/media/adp/resourcehub/pdf/adpri/illuminating-the-shadow-workforce-by-adp-research-institute.ashx>
- 14 Cambridge Systematics, “The Gig Economy and Florida’s Workforce System,” *Career Source Florida*, January 2020.
Available Online: <https://careersourceescarosa.com/wp-content/uploads/2020/01/Gig-Economy-Report.pdf>
- 15 Adam Ozimek, “Freelance Forward Economist Report,” *Upwork*, December 8, 2021.
Available Online: <https://www.upwork.com/research/freelance-forward-2021>
- 16 Bureau of Labor Statistics, “Contingent and Alternative Employment Arrangements—May 2017,” news release no. USDL-18-0942, June 7, 2018.
Available Online: <https://www.bls.gov/news.release/pdf/conemp.pdf>
- 17 Barbara Weltman, “How Much Does an Employee Cost You?” *U.S. Small Business Administration*, August 22, 2019.
Available Online: <https://www.sba.gov/blog/how-much-does-employee-cost-you>
- 18 Cambridge Systematics, “The Gig Economy and Florida’s Workforce System,” *Career Source Florida*, January 2020.
Available Online: <https://careersourceescarosa.com/wp-content/uploads/2020/01/Gig-Economy-Report.pdf>
- 19 Barbara Weltman, “How Much Does an Employee Cost You?” *U.S. Small Business Administration*, August 22, 2019.
Available Online: <https://www.sba.gov/blog/how-much-does-employee-cost-you>
- 20 Liya Palagashvili, Paola A. Suarez, Christopher M. Kaiser, and Vitor Melo, “Assessing the Impact of Worker Reclassification: Employment Outcomes Post-California AB5,” *Mercatus Working Paper, Mercatus Center at George Mason University*, January 2024. Available Online: <https://www.mercatus.org/research/working-papers/assessing-impact-worker-reclassification-employment-outcomes-post>
- 21 Ibid
- 22 Annie Gofus, “California Law May Increase Cost of Household Goods Shipments,” *Worldwide ERC*, August 29, 2022.
Available Online: <https://www.talenteverywhere.org/Mobility-News/Article/california-law-may-increase-cost-of-household-goods-shipments>
- 23 Fitz E. Barringer and Aryana Ainolhayat, “How the DOL’s Independent Contractor Rule Tug-of-War Could Affect Your Company,” *Robinson, Bradshaw & Hinson*, February 5, 2024. Available Online: <https://www.robinsonbradshaw.com/newsroom-publications-DOL-Rescinds-Trump-Era-Independent-Contractor-Rule-and>Returns-to-Holistic-Multifactor-Approach.html>

References (cont.)

- 24 Rachel Greszler, “Biden Rule Threatens To Throw Independent Contracting Into Disarray.” *The Heritage Foundation*, March 25, 2024.
Available Online: <https://www.heritage.org/jobs-and-labor/commentary/biden-rule-threatens-throw-independent-contracting-disarray>
- 25 *Ibid*
- 26 DoorDash, “Portable Benefits: A Framework to Strengthen Independent App-Based Delivery Work,” 2023. Available Online: https://assets.ctfassets.net/trvmqu12jq2l/4HPqq3IYII2JckMCJaPBh0/dd45aec86d163d6430fe4897b9439d9e/Portable_Benefits_-_DD.pdf
- 27 Nam D. Pham, “A Promising New Approach for App-Based Work: DoorDash’s Portable Benefits Savings Pilot Program in Pennsylvania,” *ndp | analytics*, December 2024. Available Online: https://assets.ctfassets.net/trvmqu12jq2l/5hkohxwxFbvL52cllqWQgT/c6b2aa9f7990f262580483529eb4354c/Portable_Benefits_Report_December_2024_1_.pdf
- 28 *Ibid*
- 29 *Utah State Legislature*, “Portable Benefit Plan,” S.B. 233, 2023 General Session, 2023.
Available Online: <https://le.utah.gov/~2023/bills/static/SB0233.html>



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