FISCAL MEMORANDUM

SB 466 - HB 539

March 20, 2019

SUMMARY OF ORIGINAL BILL: Requires Department of Labor and Workforce Development to use the 20-factor test used by the Internal Revenue Service (IRS) to determine whether an employer-employee relationship exists. Redefines the definition of *employee*.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (006074): Deletes and replaces all language after the enacting clause such that the only substantive change is to add the IRS 20-factor test questions used by the IRS and to change the effective date from upon becoming law to January 1, 2020.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Currently the DLWD uses common law rules or the ABC test to determine whether an employer-employee relationship exists; this test is broader then the IRS 20-factor test.
- The IRS 20-factor test is a list of 20 factors that may be examined in determining whether an employer-employee relationship exists. The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed; factors other than the listed 20 factors may also be relevant.
- According to the DLWD, using the IRS 20-factor test will not result in a significant impact to state government.
- According to the County Technical Assistance Service and the Municipal Technical

Advisory Service using the IRS 20-factor test will not result in a significant impact to local government.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumption for the bill as amended:

- Using the IRS 20-factor test will not result in a significant impact on commerce or jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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