



David Sichel  
Deputy Director of Risk Management Services  
Joe Damiata  
Interim Director of Risk Management Services  
Vermont League of Cities and Towns  
Testimony on March 3, 2017 on Independent Contractor Issues  
Vermont House Commerce and Economic Development Committee

I. Overview of VLCT PACIF and Workers Compensation

- VLCT PACIF provides workers' compensation coverage to 300 Vermont municipalities.
- VLCT PACIF has offered workers' compensation coverage since 1990.
- We put great emphasis on loss prevention and control, including many innovative programs.
- All claims are handled in-house.

II. Overview of VERB and Unemployment Insurance

- VERB provides self-insured unemployment insurance for 230 Vermont municipalities
- Established in 1978.

III. Independent Contractor Issue- Current Challenges

- Confusing and hard to interpret rules.
- Changing interpretations.
- Our members want to do the right thing.
- PACIF conducts workers' compensation payroll audits.
- Should PACIF charge for all independent contractors who do not provide proof of workers' compensation insurance?

IV. Standards Issues

- Like work issue. Municipalities provide a broad range of services. This creates challenges.
- Multiple contractors doing the same work.
- Examples
  1. Recreation Programs
  2. Parking Lot Plowing
  3. Roadside Mowing
  4. Building Maintenance
  5. Professional Services- Planning, Accounting, etc.

*Sponsor of:*

VLCT Employment  
Resource and Benefits  
Trust, Inc.

VLCT Municipal  
Assistance Center

VLCT Property and  
Casualty Intermunicipal  
Fund, Inc.

IV. Goals of Legislation Relating to Independent Contractors?

- Provide a clear definition of independent contractor status.
- Address the like work issue.
- Provide clarity about when an independent contractor is not required to purchase workers' compensation insurance.
- Create a safe harbor for employers that legitimately hire independent contractors who are not required to purchase workers' compensation insurance. Protect employers who try to do the right thing.

*Serving and Strengthening Vermont Local Governments*

- A state certification system could be a part of the safe harbor mechanism.
- Separate or supplemental rules may be needed for some industry groups.

#### V. Principles:

- Provide clarity for all parties.
- Make it easy to do the right thing.
- Avoid unnecessary costs and litigation.
- Protect against misuse of independent contractor status to avoid workers' compensation and unemployment insurance costs.

#### VI. Comments on Current Bills

- We support the approach of H.119 to the definition of independent contractors because it provides clarity.
- We do not support the approach of H.223 and H.323 because the concept of "the totality of the circumstances" is ambiguous and subject to differing interpretations.
- We would like to see a safe harbor created for employers that legitimately hire independent contractors who are not required to purchase workers' compensation insurance, especially if a "totality of the circumstances" approach is used.
- We do not have comments on enforcement issues at this time.