WEST VIRGINIA CODE: §21-19-4

§21-19-4. Employment classification.

(a) Contributions to a portable benefit account may not be used as a criterion for determining a worker's employment classification for purposes of:

(1) Human Rights Act rights, as set forth in §16B-17-1 *et seq*. of this code;

(2) Wage payment and collection, as set forth in §21-5-1 *et seq*. of this code;

(3) Unemployment compensation, as set forth chapter 21A of this code;

(4) Workers' compensation, as set forth in chapter 23 of this code;

(5) Taxes due the state, except for as set forth in §11-21-12o and §11-24-6d of this code;

(6) Any lawsuit implicating employment law, including, but not limited to, discrimination, hostile work environment, wrongful discharge, or retaliation;

(7) Any lawsuit implicating a third party, including, but not limited to, vicarious liability; or

(8) Establishing any other right, privilege, or legal standing which would only apply when there is an employer-employee relationship.

(b) This section does not preclude the establishment of an employer-employee relationship for any of these purposes. However, any act under this article, including the creation, use, or contributions to a portable benefit account, is strictly prohibited from being used to establish an employer-employee relationship between the hiring party and the independent contractor.

WV Legislature