



## The Daily Dish

# Lessons from Proposition 22

DOUGLAS HOLTZ-EAKIN | NOVEMBER 9, 2020

### **Eakinomics: Lessons from Proposition 22**

This election season California voters passed Proposition 22 (“Prop 22”) by a margin of 58.6 percent in favor and 41.4 percent opposed. Prop 22 defined app-based drivers to be independent contractors and not employees. Thus, Prop 22 overrode [Assembly Bill 5 \(AB5\)](#), which had redefined large swaths of independent contractors as employees for one major part of the sharing economy. According to [Ballotpedia](#), app-based drivers were those workers “who (a) provide delivery services on an on-demand basis through a business’s online-enabled application or platform or (b) use a personal vehicle to provide prearranged transportation services for compensation via a business’s online-enabled application or platform.”

If states are the laboratories of democracy, California is our own little Dr. Frankenstein. The problems started with the passage of AB5, which was guaranteed to cause enormous problems and has done just exactly that. Prop 22 undoes that damage, but only for that part of the [tech sector](#) occupied by driver-based apps such as Uber, Lyft, DoorDash and others. Worse, this is not the end of the controversy over independent work. Biden has pledged his support for a national version of AB5 (the PRO Act) which passed the House February 5<sup>th</sup>. The [PRO Act](#) potentially affects 8.5 percent of gross domestic product and puts an additional \$3.6 billion to \$12.1 billion of annual upward cost pressure on employers. These are potentially enormous disruptions, especially as the economy recovers from the COVID-19 recession and employees and employers may be seeking increasingly flexible work arrangements. It is especially perverse because fewer than 1 in 10 independent contractors want to be reclassified.

At this juncture, it would seem that two lessons emerge. First, it is much better to have a single, national standard for employer-employee relations than a wide variety of conflicting standards across the states. Second, in choosing that standard it would be wise to ground it

in the economic reality going forward. It seems to me that there is a fondness for the idea that every job should be well-paid and accompanied by full benefits – health, pension, retirement, vacation, and sick leave. That’s not realistic for every job in the 2020’s labor market, nor is this traditional job structure what every employee wants. In particular, it may not be realistic for independent contractors, gig workers, and others who have multiple entities contributing to their full earnings or prefer a do-it-yourself approach to flexibility and benefits. If there is a consensus that these benefits are essential, it seems more useful to pursue ways to provide portable benefits financed by multiple employers than to force the labor market in a straightjacket of employer-employee definitions.