



Freelancer submission cap would be lifted by AB 5 author in proposed amendments

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Assemblywoman [Lorena Gonzalez](#) (D-San Diego) amended a bill yesterday that would delete the requirement that freelance journalists and photographers can annually submit 35 contributions to a single publication in order to remain independent contractors.

The bill, [AB 1850](#), which she introduced earlier this year to fix several problems in AB 5, would exempt a still photographer, photojournalist, freelance writer, editor, or newspaper cartoonist from the ABC test established by the state Supreme Court in the Dynamex decision and was expanded by AB 5 last year.

In order to qualify for the exemption, freelancers would have to provide services under a contract that “specifies in advance the rate of pay, intellectual property rights, and obligation to pay by a defined time, as long as the services are not replacing an employee, and the freelancer does not primarily perform the work at the hiring entity’s business location and the freelancer is not restricted from working for more than one hiring entity.”

The exemption would not apply to “an individual who works on motion pictures, which includes, but is not limited to, projects produced for theatrical, television, internet streaming for any device, commercial productions, broadcast news, music videos, and live shows, whether distributed live or recorded for later broadcast, regardless of the distribution platform.”

Under the amendments, qualified freelancers would not get a free pass – they would still be governed by the [Borello standard](#) when a determination is made whether they are properly classified as independent contractors.

In her explanation of the reason for amending the bill, Gonzalez said, “Having heard additional feedback from a variety of freelance writers, photographers and journalists, we are making changes to Assembly Bill 5 that accommodate their needs and still provide protections from misclassification.”

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