

Client Alert **Employment and Labor**

Momentous Changes Regarding the Rights of Temporary Workers in NJ

On February 6, 2023, New Jersey Governor Phil Murphy signed into law a bill commonly called the “Temporary Workers’ Bill of Rights” (Bill of Rights) (P.L.2023, c.10), which establishes substantial legal protections for temporary workers in New Jersey. The Bill of Rights imposes numerous requirements on temporary help service firms (i.e. temporary agencies/temp agencies), and third party clients, which are meant to protect the temporary workers that temporary help service firms place with third party clients. It tasks the New Jersey Department of Labor and Workforce Development (NJ DOL) with oversight and creates significant penalties for failure to abide by the new requirements.

The Bill of Rights defines temporary workers as persons who contract for employment with a temporary help service firm and work in a “designated classification placement,” which is a broad and extensive listing of those occupations that the Legislature considered the most vulnerable for exploitation, such as construction laborers, food preparation workers, personal care and service operations, among others.

Under the new law, temporary help service firms will be required to implement substantial changes focused on advancing pay equity for temporary workers. Most significantly, any temporary workers assigned to work at a third party client must be paid at least the average rate of compensation as substantially similarly situated regular employees of the third party client, and the average cost of benefits, or cash equivalent thereof.

The Bill of Rights imposes numerous additional requirements on temporary help service firms, including an extensive wage notice that will be required to be provided to the temporary worker in English and in the language identified by the temporary worker as his

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or her primary language on a form to be approved by the New Jersey Commissioner of Labor, containing the following items:

1. the name of the temporary worker;
2. the name, address, and telephone number of: (a) the temporary help service firm, or the contact information of the firm's agent facilitating the placement; (b) its workers' compensation carrier; (c) the worksite employer or third party client; and (d) the NJ DOL;
3. the name and nature of the work to be performed;
4. the wages offered;
5. the name and address of the assigned worksite of each temporary worker;
6. the terms of transportation offered to the temporary worker, if applicable;
7. a description of the position and whether it shall require any special clothing, protective equipment, and training, and what training and clothing will be provided by the temporary help service firm or the third party client; and any licenses and any costs charged to the employee for supplies or training;
8. whether a meal or equipment, or both, are provided, either by the temporary help service firm or the third party client, and the cost of the meal and equipment, if any;
9. for multi-day assignments, the schedule;
10. the length of the assignment, if known; and
11. the amount of sick leave temporary workers are entitled to under NJ's Earned Sick Leave laws and the terms for use.

Other notable requirements in the Bill of Rights include substantial record keeping requirements, a requirement that assigned temporary workers be paid a minimum of four hours of pay at the agreed upon rate for each day even if no work is available at the assigned third party client's site, and prohibitions on deductions for several items such as transportation, background checks, and cashing paychecks, and for meals and equipment if it would result in workers' being paid below the minimum wage. A third party client is required to provide time records and information to a temporary help service firm for purposes of record keeping, and can be subject to a civil penalty not to exceed \$500 for each violation for failure to supply records and information to the temporary help service firms.

The NJ DOL's oversight of these changes will be aided by a mandatory certification requirement for all applicable temporary help service firms, at the annual cost of \$2,000 per temporary help service firm and \$750 per agency branch. The fine for conducting business without a proper certification has been set at \$5,000 per day. In addition, the Bill of Rights specifically empowers temporary workers to bring civil actions against both temporary help service firms and third party clients if aggrieved by a violation of any part of the Bill without regard to exhaustion of any administrative remedies.

The Bill of Rights will be implemented in two phases. The majority of the Bill of Rights provisions will take effect within 180 days of enactment, on August 5, 2023. However, provisions regarding new hire notices and prohibitions on retaliation will be effective within 90 days of signing, on May 7, 2023.

It is prudent for temporary help service firms and the third party clients who utilize the assistance of temporary workers from such firms to implement measures to comply with the new requirements imposed by the Bill of Rights and assess the impact on their respective businesses.

Our Sills Cummis Employment and Labor Practice Group
can assist employers regarding the issues raised in this alert.

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