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**To:** Members of the Assembly Labor Committee  
**From:** Alexis Bailey, Director of Government Affairs  
**Date:** May 19, 2022  
**RE:** **NJBIA Opposition to A-1474-** Provides certain protections and rights for temporary laborers

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**Michele N. Siekerka,**  
**Esq.**  
President and CEO

On behalf of our member companies that make NJBIA the largest statewide business association in the nation, I write to you in opposition to Assembly Bill No. 1474 which creates protections and rights for temporary laborers.

**Christine Buteas**  
Chief Government  
Affairs Officer

NJBIA is fully supportive of rooting out bad actors and ensuring all workers employed by temporary help service firms are treated fairly and with respect. We support the measures of transparency for workers as well as for third-party companies utilizing the services of temp agencies. However, we have concerns about some of the impacts this legislation will have on third-party companies that rely on the ability to utilize their services.

**Raymond Cantor**  
Vice President

**Christopher Emigholz**  
Vice President

Below are NJBIA's concerns and recommendations that can better accommodate third-party client businesses utilizing temporary help service firms while still maintaining the intended protections and rights for temporary laborers.

**Alexis Bailey**  
Director of  
Government Affairs

**Joint legal liability:** Section 9.b of this bill states that *"If a third-party client leases or contracts with a temporary help service firm for the services of a temporary laborer, the third-party client shall be, with the temporary help service firm, jointly and severally responsible for: ...any violation of P.L., c. (pending before the Legislature as this bill)."* This provision coupled with the extensive legal remedies listed in section 11 will lead to the possibility of litigation for third-party businesses utilizing workers from a properly registered temporary help service firm if the temporary help service firm does something wrong. A minor error or egregious violation of the law could put a third-party company at risk over something they may have no control over or knowledge of. We suggest removing this section to more narrowly focus legal remedies on third-party help service firms who are the employers in this situation.

**Kyle Sullender**  
Director of Economic  
Policy Research

**Concern over the private right of action, liquidated damages, and attorneys' fees provisions:** This bill includes several legal remedies in section 11 that are extremely troublesome for the business community. The inclusion of a private right of action often leads to costly lawsuits with little merit against employers, even for minor, inadvertent paperwork violations. The bill also provides for liquidated damages and attorneys' fees which will encourage class action suits with the goal of large settlement payouts. We suggest revising this section to give enforcement authority to the Commissioner of the Department of Labor and Workforce Development rather than facilitating costly

litigation. The Commissioner is best equipped to assess wrongdoing on behalf of the temporary help service firm and/or the third-party business and will close the door on unscrupulous trial attorneys.

**Effective date:** As written, this bill would take effect immediately upon enactment. We suggest extending the effective date in order to allow third-party businesses and temporary help service firms time to properly be in compliance with the various reporting and registration requirements created by this legislation.

**Temporary laborers must be paid the same compensation and benefits as employees of third-party clients:** Section 7 indicates that *“any temporary laborers assigned to work for a third-party client shall not be paid less than the same average rate of pay and equivalent benefits as a permanent employee of the third-party client performing the same or substantially similar work...”* The terms of employment for a temporary laborer could be a few days or few weeks creating a different level of expertise than that of a permanent employee. As a result, businesses should have the flexibility to set wages accordingly. Additionally, equivalent benefits can be very difficult for third-party client businesses to provide as these temporary laborers are not employees of that business. Since these workers are employed by the temporary help service firm and can be assigned frequently to different jobs for different third-party client businesses, we suggest allowing the temporary help service firm to offer and negotiate benefits as an option for these workers rather than requiring third party business to provide benefits to individuals that are not their employees.

**Four hours of pay if the temporary laborer reports to a worksite and is not utilized:** Section 6.g. requires the temporary help service firm to compensate a temporary laborer for a minimum of four hours worked if they are contracted to work at a third-party client business' worksite, but they are not utilized. We suggest amending this section to require temporary help service firms to pay temporary laborers a minimum of one hour if they report to a worksite and are not utilized in order to maintain consistency with current New Jersey statute on reporting pay which can be found at NJ Admin. Code 12:56-5.5.

Thank you for taking our concerns into consideration. If you have any questions, please contact me at [abailey@njbja.org](mailto:abailey@njbja.org).