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To: Members of the New Jersey General Assembly
From: Alexis Bailey, Director of Government Affairs
Date: June 29, 2022
RE: NJBIA Opposition to A-1474- Provides certain protections and rights for temporary laborers

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On behalf of our member companies that make NJBIA the largest business association in the state, I write to you in **opposition of Assembly Bill No. 1474** which seeks to create additional protection and transparency for temporary laborers. However, this legislation contains several concerning and unworkable provisions that will negatively impact third-party companies utilizing the services of temporary workers.

First, this legislation 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 violations.** The bill also provides for liquidated damages and attorneys' fees which will encourage class action suits with the goal of large settlement payouts. This legislation includes extensive mechanisms for the Commissioner of the Department of Labor and Workforce Development to enforce and fine any temporary help service firm or third-party business that violates a provision of the law. This mechanism is more than sufficient to protect workers and root out bad actors. This damaging private right-of-action provision will open the door to unscrupulous litigation and add to our state's reputation of being an unfriendly place to do business.

While narrowed from the original draft, **this legislation still includes joint legal liability between third-party businesses and temporary help service firms** for certain violations of the bill in section 7. 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 commits a wage violation that could be out of their control. This provision is unfair and unnecessary as the Commissioner of the Department of Labor already has extensive authority to penalize businesses through current statutes and the enforcement authority included in this bill.

Additionally, this legislation **requires temporary laborers to be paid the same compensation and benefits as their equivalent employee counterparts.** 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..."* **Providing equivalent benefits to temporary laborers that are not employees of third-party businesses is not workable.** Benefits can encompass a wide range of offerings such

as health insurance, 401k matches, life insurance policies and other unique features of compensation packages. Since temporary laborers are not employees of third-party businesses, they cannot be directly enrolled into the various types of benefit plans that may be provided to a third-party business' permanent workforce. Additionally, temporary help service firms assign temporary laborers to various workplaces. It would not be possible for them to administer these equivalent, extensive benefits packages based on offerings that will vary widely across companies.

Lastly, this legislation includes **four-hour reporting pay if the temporary laborer reports to a worksite and is not utilized**. This reporting pay requirement is not consistent with current statute (NJ Admin. Code 12:56-5.5), which requires other types of employees to receive a minimum of one hour of reporting pay if they report to a worksite and their place of business is closed.

Temporary laborers often choose temporary work arrangements for the flexibility these roles provide. Many businesses rely on these types of work arrangements to fill temporary gaps in their labor force. While we respect the intent of the sponsors to provide more transparency and consistency for temporary laborers, this legislation contains several unworkable and burdensome provisions that will disrupt and jeopardize the necessary relationship between third-party businesses and temporary help service firms. As businesses continue to face workforce shortages across industries, now is not the time to advance this legislation without addressing these glaring concerns.

For these reasons, we urge you to **vote NO on A-1474**. If you have any questions, please contact me at abailey@njbja.org or at 551-221-3355.