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To: Members of the New Jersey Senate

From: Alexis Bailey, NJBIA Vice President of Government Affairs

Date: October 14, 2022

RE: NJBIA Opposition to A-1474/S-511- Provides certain protections and rights for temporary laborers

On behalf of our member companies that make NJBIA the largest business association in the state, I write to you in **opposition to Assembly Bill No. 1474/Senate Bill No. 511** which seeks to create additional protection and transparency for temporary laborers. However, **this legislation contains several concerning provisions that will negatively impact third-party companies utilizing the services of temporary workers and jeopardize the viability of the staffing industry. Despite the conditional veto, this legislation still goes far beyond what other states, such as Massachusetts and Illinois, have done to regulate temporary worker arrangements.**

First, this legislation will **require temporary workers to be paid the average rate of compensation and average cost of benefits, or the cash equivalent thereof, as their equivalent employee counterparts.** This provision is unworkable for the business community. Temp agencies contract with multiple businesses that offer different benefits packages. These packages can encompass everything from 401k matches and health insurance to vacation days and life insurance policies. Calculating and providing payment for the average cost of these benefits packages will be a logistical challenge. This provision will so greatly drive up the cost of utilizing temp agencies that it will jeopardize the staffing industry, harming businesses in need of temporary labor as well as workers who prefer these jobs. **States such as Illinois and Massachusetts that have taken steps to provide further protections and transparency for temporary laborers have done so without including this provision that will put the viability of temporary help service firm and third-party company relationships at risk.**

Additionally, 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.** Governor Murphy's conditional veto even added a \$1 million appropriation to ensure the Department has sufficient resources for enforcement. **This mechanism, coupled with those already available through statute, is more than sufficient to protect workers and root out bad**

actors. The unnecessary and 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 narrower than 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 violation. 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.

Lastly, this legislation will further increase the cost of utilizing temporary workers by mandating **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 in the rare event that 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.

We urge you to **vote NO on A-1474** in order to bring greater balance to this legislation before returning it to the Governor's desk. If you have any questions, please contact me at abailey@njbja.org or at 551-221-3355.