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Employment Law Insider Alert

New Jersey Enacts The Temporary Workers' Bill Of Rights, Effective August 5, 2023



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Key points:

New Jersey enacts first-in-the-nation protections for temp workers.

New law mandates "equal pay for equal work" for temporary employees.

Stiff penalties and a private right of action deter violations.

On February 6, 2023, New Jersey Governor Phil Murphy signed into law [A1474/S511](#), the "Temporary Workers' Bill of Rights." This new law, the first of its kind in the nation, seeks to provide 127,000 or more "temporary workers" in New Jersey with new rights and protections. In a [recent statement](#), Governor Murphy noted that the law "establishes necessary guidelines for temporary help service firms and third-party clients to ensure that these workers are afforded basic protections and treated with the dignity they deserve."

The new law will be fully effective 180 days after enactment, on August 5, 2023. Certain provisions – dealing with notice to employees and anti-retaliation provisions – take effect on May 7, 2023. To avoid potential liability, temporary service firms and employers should be aware of the new requirements and rights provided under this law.

Wage Requirements

Under the new law, covered temporary workers must be paid the same average rate of pay and cost of benefits as regular employees of the employer in similar positions with similar skill requirements, responsibilities, and working conditions, even after the numerous fees often charged to temporary em-



ployees are deducted. As a result, temporary worker hourly wages may end up costing employers more than regular employees' wages.

At the time of payment of wages, a temporary service firm is required to provide each temporary worker with a detailed itemized statement on their paycheck stub or form approved by the New Jersey Commissioner of Labor and Workforce Development ("Labor Commissioner"). This statement must include the number of hours worked during each day of the pay period, total earnings for the pay period, and the rate of payment for each hour worked, including premium rates and bonuses.

In addition, temporary service firms may charge placement fees to employers. However, the amount and purpose of any fees or deductions made by the third-party employer or by the temporary service

firm with respect to these placement fees must also be disclosed on the temporary worker's paystub. For a full detailed list of the required wage statement disclosures, employers should consult relevant provisions of the [statute](#).

Placement Fees

Under the new law, temporary workers have a right to accept permanent employment with an employer with which they are staffed. Temporary service firms are prohibited from preventing temporary workers from accepting permanent positions. However, as mentioned above, temporary service firms may charge placement fees for temporary workers who are permanently hired, provided they provide notice to the worker and the fee is within the statutory prescribed limits.

Firm Registration

Temporary service firms will be required to register with the Labor Commissioner to operate in New Jersey. Employers are restricted from doing business with unregistered temporary service firms. Temporary service firms must also satisfy certain insurance coverage requirements under the law and notify the Labor Commissioner of any lapses in coverage.

Notice to Employee Requirements

Whenever a temporary help service firm agrees to send an individual to work as a temporary worker, the firm will be required to provide such individual, at the time of dispatch, a written statement in both English and the language identified by the temporary worker as their primary language. These statements must provide the contact information for: the temporary service firm,

the firm's workers' compensation carrier, the worksite employer or third-party client, and the New Jersey Department of Labor and Workforce development.

In addition, the statement must include the terms of transportation offered, a description of the position and whether it requires any special clothing, whether a meal is provided, and the length of the assignment. For a complete list of the statement requirements please see enumerated list in [the statute](#).

Record Keeping

The new law requires temporary service firms to maintain records for six years and to provide temporary workers with free copies within five days of a written request. Additionally, effective on May 7, 2023, temporary service firms will be required to give temporary workers a minimum of forty-eight hours' notice if there is a change regarding the worker's schedule, shift or location of a multi-day assignment.

Enforcement and Penalties

For certain violations, temporary service firms may face administrative penalties between \$500 and \$5,000 per violation. In addition, such violations may result in a firm's registration with the state being revoked or denied. The new law also provides temporary workers with a private right of action to bring claims in New Jersey superior court within six years of employment with the temporary service firm or from the date that the contract with the firm or third-party client is terminated. The new law makes temporary service firms and the employers who contract with such firms jointly and severally liable for any violations of the wage or placement fee notice provisions.

Termination or disciplinary actions by a temporary service firm against a temporary worker within ninety days of the filing of a complaint for violations of the new law will raise a rebuttable presumption of retaliation.

No Retaliation

Under the new law, termination or disciplinary actions by a temporary service firm against a temporary worker within ninety days of the filing of a complaint for violations of the new law will raise a rebuttable presumption of retaliation. The new law permits temporary workers to seek the greater of all legal or equitable relief as may be appropriate, or liquidated damages equal to \$20,000 per incident of retaliation, reinstatement if appropriate, and attorney's fees and costs.

Conclusion

To avoid costly penalties, temporary service firms and the employers they conduct business with should immediately review their hiring procedures, employment practices and guidelines to ensure compliance with New Jersey's Temporary Workers' Bill of Rights prior to the initial May 7, 2023 effective date for

certain provisions and certainly before the August 5, 2023 effective date for all provisions. We are certainly happy to assist with any questions that may arise. ▲

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