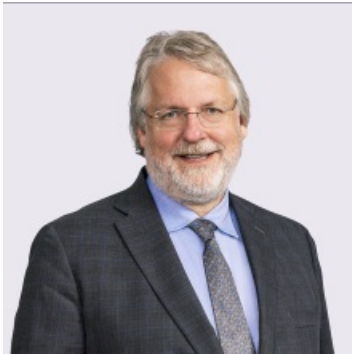


Illinois Amends Temp Worker Law, Boosting Employer Obligations

By Thomas E. Berry, Neil H. Dishman & Emma R. Graham

September 13, 2024

Meet the Authors



Thomas E. Berry

Principal
(314) 827-3951
Tom.Berry@jacksonlewis.com



Neil H. Dishman

Principal
(312) 803-2530
Neil.Dishman@jacksonlewis.com



Emma R. Graham

Associate

The Illinois Day and Temporary Labor Services Act (IDTLA) has been amended for the third time in the last year. Codified as [Public Act 103-1030](#), the amendments clarify employers' and staffing agencies' obligations on equal pay, notices, and more.

Equal-Pay Requirement

Amount of work: The amendments clarify the amount of work that entitles a temporary laborer to equal pay.

The original law stated the equal-pay requirement was effective once a temporary laborer had been "assigned" to a third-party client for 90 days. Subsequently, the legislature delayed this obligation, starting the clock on April 1, 2024.

Under P.A. 103-1030, equal pay is instead required after a temporary laborer "performs more than 720 hours of work in a 12-month period" for a third-party client, with the clock again starting on April 1, 2024.

How to compute: P.A. 103-1030 offers a new option for computing "equal pay."

The original law required equal pay to be determined using the rate of either (a) the third-party client's lowest paid, directly hired, similarly situated employee with the same or substantially similar seniority to the temporary laborer; or (b) the lowest paid, directly hired employee with the closest level of seniority to the temporary laborer (the "comparator").

P.A. 103-1030 still allows this "comparator" method, but as another alternative, for temporary laborers to be paid the median wages:

of workers working in the same or a substantially similar job classification, as reflected in the detail level of the most recent Standard Occupational Classification System published by the United States Department of Labor's Bureau of Labor Statistics [BLS], in the same metropolitan area or non-metropolitan area of Illinois where the work is performed, as reflected in the most recent Occupational Employment and Wage Statistics Survey.

Under this new option, once a temporary laborer has worked for the third-party client for 4,160 hours during a 48-month period, the required wages then increase from the median to the 75th percentile in the BLS data.

Responsibility for Determining Equal Pay

The amendments also clarify that it is the temporary staffing agency's responsibility to determine the amount of equal pay due, based on information provided by the third-party client, and to pay the temporary laborer correctly.

Related Services

Employee Benefits
National Compliance and Multi-
State Solutions
Pay Equity
Staffing and Independent
Workforce
Wage and Hour

Collective Bargaining Agreement Exemption

Under the amendments, the equal-pay provision does not apply if the “comparator” employees (the third-party client’s directly hired employees) are covered by a valid collective bargaining agreement.

“Labor Dispute” Definition

The amendments clarify a temporary staffing agency’s obligation to provide notice to a temporary laborer of a “labor dispute” at a third-party client. Temporary staffing agencies must notify temporary laborers when they are being assigned to a third-party client “where a strike, lockout, or work stoppage exists because of a labor dispute or where a picket, bannering, or handbilling exists because of a labor dispute.”

Employment Notices to Laborers

The IDTLA has required temporary staffing agencies to provide employment notices to temporary laborers when assigning laborers to a third-party client.

P.A. 103-1030 requires temporary staffing agencies to include in these notices the seniority and hourly wage of the comparator or, if applicable, the standard occupational classification used to determine the wage of the temporary laborer.

Application Receipt to Non-Assigned Laborers

Finally, the amendments require temporary staffing agencies to provide an application receipt to temporary laborers who apply for an assignment but who are not assigned to a third-party client.

The Illinois Department of Labor will provide a form that must be used for this application receipt. The application receipt will include the following:

1. The name and location of the temporary staffing agency;
2. The name and address of the temporary laborer;
3. The date and time that the laborer applied for an assignment;
4. The manner in which the laborer applied for an assignment; and
5. The specific work sites or types of jobs sought by the laborer, if applicable.

Equivalent Benefits

The IDTLA purports to entitle temporary laborers to a certain level of benefits after assignment to a third-party client for a certain amount of time.

Although the amendments make minor changes to this “equivalent benefits” provision, the provision remains enjoined and not in effect. The Illinois Department of Labor has appealed that decision. The case is pending before the U.S. Court of Appeals for the Seventh Circuit. While asking the Seventh Circuit to lift the injunction, the state attorney general has acknowledged that the changes outlined in P.A. 103-1030 do not moot the issues that led to the injunction.

Illinois employers should discuss IDTLA compliance with employment counsel. For more information about the IDTLA, please contact a Jackson Lewis attorney.

©2024 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.