



FACT SHEET AB 1897 (HERNÁNDEZ)

PROTECTING WORKERS IN THE NEW SUBCONTRACTED ECONOMY

Purpose

To hold companies accountable for wage theft and other abuses when they use staffing agencies and other labor contractors to supply workers.

Background

Across our economy, we are seeing a resurgence in the use of labor contractors and the reemergence of what in the late 1800's was called "the sweating system." Like the sweatshops of old, companies are using third-party labor suppliers to squeeze workers to work harder for less pay while insulating the company in charge from responsibility for what is done to those workers. This structure does more than just drive down wages; it makes accountability almost impossible.

The workers at the bottom of this chain work directly for the contractor and are supplied to companies on an "as needed" basis with no strings attached. In some cases, they are treated as day laborers and gather every morning at the staffing agency to see whether they will be assigned work. Others work full-time for years but are considered temporary.

Subcontracted workers wear hotel uniforms and clean rooms, but are hired by a temporary agency. When they get cheated out of wages, the hotel denies any responsibility. Other workers pack lettuce and onions for years in food processing plants, but are hired through farm labor contractors. When

they speak out about working conditions, the company threatens to cut its ties with the contractor so workers will lose their jobs. When workers look for help, even state enforcement agencies are often uncertain about who the actual employer is and who can be held accountable.

Today's subcontracted workforce bears little resemblance to the "Kelly Girls" who were once the poster child of the temporary industry. Instead, third-party labor suppliers are being used to provide low-cost "perma-temps" to do strenuous and often dangerous work for years on end. One in 20 blue-collar jobs in America are temporary, including one in five manual laborers and one in six auto workers.¹

Subcontracted workers by definition have no guarantee of additional work and so a worker can easily be punished for speaking out. Employers also use the threat of terminating the contract with the staffing agency or contractor if the workers exercise protected labor rights. These types of retaliation are hard to prove and hard to remedy.

A recent report by ProPublica found that in California, temporary workers face a 50% greater risk of getting injured on the job than permanent employees. That disparity was even greater for serious accidents, especially since the growth of labor contractors has been most pronounced in blue-collar industries.²

1 <http://www.propublica.org/article/the-expendables-how-the-temps-who-power-corporate-giants-are-getting-crushed>

2 <http://www.propublica.org/article/temporary-work-lasting-harm>

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CALIFORNIA LABOR FEDERATION

WORKING PEOPLE ✨ STANDING TOGETHER

When two recycling workers lost fingers in similar machine accidents in 2009, Soex West Textile Recycling told CalOSHA it could not be held responsible as it had no employees. The workers injured on their property by their equipment were employed by another entity, who also denied any role in supervision or control.³ This example underscores the challenge for state agencies in preventing workplace accidents in these subcontracted settings.

Labor contractors are increasingly recruiting immigrant workers.⁴ In fact, ProPublica has documented the rise of “temp towns,” which are dominated by staffing agencies that prey on undocumented immigrants. Even the staffing agencies may have layers of subcontractors who charge workers to find work and provide transportation.

Not only does the use of a contractor make it harder to hold the company accountable for the treatment of workers, but it also interferes with the right to organize. Contract laborers work for the labor contractor, so at one site, there can be multiple employers. That results in split bargaining units, multiple elections, and a constantly divided workforce.

Current law is simply insufficient to protect workers’ rights in the shadows of the subcontracted economy. Under existing law, a company can only be held responsible if a worker can prove joint employer status. This process is costly, slow, and difficult to navigate for most workers. It requires litigation, rather than providing a simple

and straightforward rule. It is also easily manipulated by companies that have the labor contractor provide supervision on site to shield them from liability.

What This Bill Will Do

AB 1897 holds companies accountable for serious violations of workers’ rights, committed by their own labor suppliers, to workers on their premises. This simple rule will incentivize the use of responsible contractors, rather than a race to the bottom. It will protect vulnerable temporary workers, as well as businesses that follow the law and don’t profit from cheating workers. It offers workers a clear path to accountability for workplace violations and it offers employers a clear path to compliance.

Support

- ~ California Labor Federation (Co-Sponsor)
- ~ California Teamsters Public Affairs Council (Co-Sponsor)
- ~ United Food & Commercial Workers Western States Council (Co-Sponsor)
- ~ California Rural Legal Assistance Foundation
- ~ Service Employees International Union State Council

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3. <http://www.dir.ca.gov/dosh/citations/Strategic%20Outsourcing%20Inc.%20312913700.pdf>

4. <http://thinkprogress.org/immigration/2013/06/28/2228631/temp-immigrants-cheap-labor/#>