

New California Law Imposes Liability on Companies Where Labor Contractors fail to pay Wages or Provide Workers' Compensation Insurance

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On Sunday, September 28, 2014, California Governor Jerry Brown signed into law [AB 1897](#) (D-Hernandez), which imposes liability on companies who use subcontracted temporary labor if the temp company fails to pay wages or provide valid workers' compensation coverage. The bill applies where a temp company supplies workers to a client employer to perform labor within the client employer's usual course of business.

Thus, for example, if the temp agency fails to pay wages to the subcontracted employee, the client company will share liability with the temp company.

The law will have repercussions in the burgeoning temp industry because one of the selling points for such companies has always been that they provide workers to clients while taking upon themselves all of the headaches of employee management — including absorbing liability under applicable employment laws. Now, when a temp agency fails to pay wages or provide workers compensation insurance, the client company will be on the hook. As a result, companies that normally use labor contractors to avoid the hassles of dealing with employees will of necessity need to concern themselves with whether the contractors are complying with the law as regards those temp workers.

Since this new law could potentially harm the market for subcontracted labor, it is important to note following language in the statute:

“This section does not prohibit a client employer from establishing, exercising, or enforcing by contract any otherwise lawful remedies against a labor contractor for liability created by acts of a labor contractor.”

In other words, the law appears to contemplate the possibility of temp companies contracting to indemnify or otherwise hold the client employer harmless where the labor contractor's failure results in liability for the client employer. For larger staffing companies especially — i.e., those with cash reserves and adequate insurance —

such a guarantee could go a long way toward removing some of the sting from the new law by alleviating client anxieties.

Please contact the author if you have any questions regarding this new California statute.

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