

# HOUSE BILL NO. 4034

January 19, 2023, Introduced by Reps. Hope, Brixie, Tsernoglou, Andrews, Snyder, Wilson, Dievendorf, Young, Hood and Breen and referred to the Committee on Labor.

A bill to regulate temporary labor service agencies, their clients, and temporary laborers; to prohibit retaliation for exercising rights granted under this act; to provide for the powers and duties of certain state officers and entities; to provide for the promulgation of rules; and to provide remedies and sanctions.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "temporary laborer rights  
2 act".

3           Sec. 3. As used in this act:

4           (a) "Client" means a person that contracts with a temporary  
5 labor service organization to obtain the services of temporary

1 laborers.

2 (b) "Department" means the department of licensing and  
3 regulatory affairs.

4 (c) "Job site" means the physical location at which a  
5 temporary laborer performs work for a client under a contract  
6 between a temporary labor service agency and the client.

7 (d) "Temporary labor" means work performed by a temporary  
8 laborer at a job site, the duration of which may be specific or  
9 undefined, under a contract between a temporary labor service  
10 agency and a client. Temporary labor does not include professional  
11 work.

12 (e) "Temporary labor service agency" means a person engaged in  
13 the business of employing temporary laborers to provide services,  
14 for a fee, to or for a client under a contract with the client.

15 (f) "Temporary laborer" means an individual who contracts for  
16 employment with a temporary labor service agency.

17 Sec. 5. (1) A temporary labor service agency shall provide a  
18 temporary laborer, at the time of dispatch to a client, with a  
19 notice that includes all of the following on a form approved by the  
20 department:

21 (a) The name of each temporary laborer dispatched to the same  
22 job site.

23 (b) The name and nature of the work to be performed and the  
24 types of equipment, protective clothing, and training that are  
25 required for the work.

26 (c) The wage rate for the work.

27 (d) The name and address of the client and job site.

28 (e) The terms of the transportation to the job site.

29 (f) Whether a meal or equipment is provided by the temporary

1 labor service agency or the client and the cost of the meal and  
2 equipment.

3 (2) If a temporary laborer is assigned to the same assignment  
4 for more than 1 day, the temporary labor service agency is required  
5 to provide the notice under subsection (1) only on the first day  
6 and any day the terms of the notice change.

7 (3) If a temporary laborer is not placed with a client or  
8 otherwise contracted to work for a day that the temporary laborer  
9 reports to the temporary labor service agency, the temporary labor  
10 service agency shall, upon the request of the temporary laborer,  
11 provide the temporary laborer with confirmation that the temporary  
12 laborer sought work. The confirmation must be signed by an employee  
13 of the temporary labor service agency and include the name of the  
14 agency, the name and address of the temporary laborer, and the date  
15 and time that the temporary laborer received the confirmation.

16 (4) A temporary labor service agency shall not provide a  
17 temporary laborer to a job site where a strike, lockout, or other  
18 labor dispute exists.

19 (5) The department shall encourage a temporary labor service  
20 agency to hire employees who can communicate the information  
21 required under subsections (1) to (3) in the languages that are  
22 generally understood in the geographic area of the temporary labor  
23 service agency.

24 Sec. 7. (1) A temporary labor service agency shall maintain a  
25 record of each transaction with a client that includes all of the  
26 following information:

27 (a) The name, address, and telephone number of the client, the  
28 job sites to which temporary laborers were sent by the temporary  
29 labor service agency, and the date of the transaction.

1 (b) All of the following information for each temporary  
2 laborer:

3 (i) The temporary laborer's name and address.

4 (ii) The job sites to which the temporary laborer was assigned.

5 (iii) The number of hours worked by the temporary laborer and  
6 the temporary laborer's wage rate.

7 (iv) The name and nature of the work performed by the temporary  
8 laborer.

9 (c) The name and title of the employee responsible for the  
10 transaction.

11 (d) The number of hours billed to the client.

12 (e) The specific qualifications or attributes of a temporary  
13 laborer requested by the client.

14 (f) Copies of all contracts with the client and copies of all  
15 invoices for the client.

16 (g) Copies of all notices provided under section 5(1).

17 (h) All deductions from each temporary laborer's compensation  
18 made by the client or temporary labor service agency, including,  
19 but not limited to, the temporary laborer's transportation, food,  
20 equipment, withheld income tax, and withheld Social Security  
21 payments.

22 (i) Verification of the actual cost of any equipment or meal  
23 charged to a temporary laborer.

24 (j) The race and gender of each temporary laborer, as provided  
25 by the temporary laborer.

26 (k) Any other information as required by the department.

27 (2) A client shall remit the information described in  
28 subsection (1) in its possession to a temporary labor service  
29 agency not later than 7 days after the last day of the work week

1 worked by a temporary laborer. The failure of a client to remit  
2 this information to a temporary labor service agency is not a  
3 defense to a violation of this section.

4 (3) A temporary labor service agency shall maintain records  
5 under subsection (1) for 7 years after their creation. A temporary  
6 labor service agency shall make the records available for  
7 inspection by the department during normal business hours. A  
8 temporary labor service agency shall make the records described in  
9 subsection (1)(a), (b), (c), (g), (h), and (i) available for review  
10 or copying by the respective temporary laborer during normal  
11 business hours not later than 5 days after the temporary laborer  
12 requests the records. A temporary labor service agency shall make  
13 forms, in duplicate, for requests made under this subsection  
14 available to temporary laborers at the dispatch office, and shall  
15 provide a copy of the request form to the temporary laborer.

16 (4) A person shall not make a false, inaccurate, or incomplete  
17 entry into a record required under this section or delete required  
18 information from a record. A client that does not remit records to  
19 the temporary labor service agency under subsection (2) violates  
20 this section, unless the client was precluded from remitting the  
21 records for reasons beyond the client's control.

22 Sec. 9. A temporary labor service agency or client shall not  
23 charge a temporary laborer for a meal that the temporary labor  
24 service agency or client provides to the temporary laborer and that  
25 the temporary laborer does not consume. If a temporary labor  
26 service agency or client provides a meal to a temporary laborer and  
27 the temporary laborer consumes, wholly or partially, the meal, the  
28 temporary labor service agency or client may charge the temporary  
29 laborer only the actual cost of the meal. The purchase of a meal

1 must not be a condition of employment for a temporary laborer.

2       Sec. 11. (1) A temporary labor service agency or client shall  
3 not charge a fee to transport a temporary laborer to or from a job  
4 site. A temporary labor service agency is responsible for the  
5 conduct and performance of a person who transports a temporary  
6 laborer to or from the temporary labor service agency to a job  
7 site, unless the transporter is any of the following:

8       (a) A public mass transportation system.

9       (b) A common carrier.

10       (c) The temporary laborer providing his or her own  
11 transportation.

12       (d) Selected exclusively by and at the sole choice of the  
13 temporary laborer for transportation in a vehicle not owned or  
14 operated by the temporary labor service agency.

15       (2) If a temporary labor service agency provides  
16 transportation to a temporary laborer or refers a temporary laborer  
17 to a person for transportation under subsection (3), the temporary  
18 labor service agency shall not allow a motor vehicle to be used for  
19 the transportation if the temporary labor service agency knows or  
20 should know that the motor vehicle is unsafe or not equipped as  
21 required under this act. This subsection does not apply to a motor  
22 vehicle that is any of the following:

23       (a) The property of a public mass transportation system.

24       (b) The property of a common carrier.

25       (c) The temporary laborer's personal vehicle.

26       (d) The vehicle of a temporary laborer used to transport other  
27 temporary laborers and that is selected exclusively by and at the  
28 sole choice of the temporary laborer for transportation.

29       (3) A temporary labor service agency shall not refer a

1 temporary laborer to a person for transportation to or from a job  
2 site unless that person is a public mass transportation system or  
3 will provide the transportation at no charge. Directing a temporary  
4 laborer to accept transportation from a specific temporary laborer  
5 as a condition of work is a referral by the temporary labor service  
6 agency under this subsection. Any mention or discussion by a  
7 temporary labor service agency of the cost of transportation  
8 provided by another temporary laborer is a referral under this  
9 subsection. Informing a temporary laborer of the availability of  
10 transportation provided by another temporary laborer is not a  
11 referral under this subsection.

12 (4) A temporary labor service agency that provides  
13 transportation for a temporary laborer to a job site shall also  
14 provide the temporary laborer transportation from the job site,  
15 unless the temporary laborer agrees, before departure to the job  
16 site, to obtain an alternative means of transportation from the job  
17 site.

18 Sec. 13. (1) A temporary labor service agency or client shall  
19 not charge a temporary laborer the market value of any safety  
20 equipment, clothing, accessory, or other item temporarily provided  
21 to a temporary laborer that is required by law, custom, or the  
22 client to perform the work, unless the temporary laborer does not  
23 return the item.

24 (2) If a temporary labor service agency makes available to a  
25 temporary laborer for purchase an item other than those described  
26 in subsection (1), the temporary labor service agency shall not  
27 charge more than the actual market value for the item.

28 Sec. 15. (1) A temporary labor service agency shall include on  
29 a temporary laborer's paycheck stub, or with the temporary

1 laborer's paycheck stub on a form approved by the department, all  
2 of the following information:

3 (a) The name, address, and telephone number of each client for  
4 which the temporary laborer worked. If this information is provided  
5 on the temporary laborer's paycheck stub, a code for each client  
6 may be used if the required information for each coded client is  
7 made available to the temporary laborer.

8 (b) The number of hours worked by the temporary laborer at  
9 each client each day during the pay period. If the temporary  
10 laborer is assigned to work at the same job site of the same client  
11 for multiple days in the same work week, the temporary labor  
12 service agency may record a summary of hours worked at that  
13 client's job site if the first and last day of that work week are  
14 also identified.

15 (c) The wage rate for each hour worked, including premium  
16 rates and bonuses.

17 (d) The total pay period earnings.

18 (e) All deductions from the temporary laborer's compensation  
19 made by the client or the temporary labor service agency, and the  
20 purpose for which deductions were made, including, but not limited  
21 to, transportation, food, equipment, withheld income tax, and  
22 withheld Social Security payments.

23 (f) Any additional information as required by the department.

24 (2) A client shall provide a temporary laborer, at the end of  
25 a work day, with a work verification form that includes the date,  
26 the temporary laborer's name, the job site location, and the hours  
27 worked on that day. The department shall prescribe a form for a  
28 client to use under this subsection. A client that violates this  
29 subsection may be ordered to pay a civil fine of not more than



1 \$500.00. For a second and any subsequent violation, a client may be  
2 ordered to pay a civil fine of not more than \$2,500.00. Each  
3 violation of this subsection for each temporary laborer and for  
4 each day the violation continues is a separate and distinct  
5 violation. The prosecutor of the county in which the violation  
6 occurred or the attorney general may bring an action to collect the  
7 fine.

8 (3) Not later than February 1 of each year, a temporary labor  
9 service agency shall provide a temporary laborer with an earnings  
10 summary for the immediately preceding calendar year. A temporary  
11 labor service agency shall, at the time of each wage payment, give  
12 notice to a temporary laborer of the availability of the annual  
13 earnings summary or, as an alternative, post a notice of the  
14 availability of the annual earnings summary in a conspicuous place  
15 in its public access area.

16 (4) A temporary labor service agency or client shall not  
17 charge a temporary laborer for the expense of conducting a consumer  
18 report, as that term is defined in 15 USC 1681a(d), a criminal  
19 background check, or a drug test.

20 (5) The total amount deducted from a temporary laborer's  
21 compensation by a temporary labor service agency or a client for  
22 meals or equipment must not cause a temporary laborer's hourly wage  
23 rate to fall below the minimum wage rate established under the  
24 improved workforce opportunity wage act, 2018 PA 337, MCL 408.931  
25 to 408.945.

26 (6) If a temporary laborer who is contracted by a temporary  
27 labor service agency to work at a client's job site does not, at  
28 the direction of the client, perform work for the client, the  
29 temporary labor service agency shall pay the temporary laborer an

1 amount equal to at least 4 hours of pay at the agreed upon wage  
2 rate. However, if the temporary labor service agency contracts the  
3 temporary laborer to work at another job site during the same  
4 shift, the temporary labor service agency shall pay the temporary  
5 laborer an amount equal to at least 2 hours of pay at the agreed  
6 upon wage rate.

7       Sec. 17. A temporary labor service agency shall attempt to  
8 place a temporary laborer into a permanent position with a client  
9 if the client informs the temporary labor service agency of its  
10 plan to hire a permanent employee for a position similar to the  
11 positions for which temporary laborers are being provided by the  
12 agency at the same job site.

13       Sec. 19. A temporary labor service agency shall not restrict  
14 the right of a temporary laborer to accept a permanent position  
15 with a client to whom the temporary laborer has been referred for  
16 work or restrict the right of the client to offer employment to the  
17 temporary laborer. If the temporary laborer accepts a permanent  
18 position with the client, the temporary labor service agency may  
19 charge a placement fee to the client. The fee must not exceed an  
20 amount equal to the total daily commission rate the temporary labor  
21 service agency would have received over a 60-day period, reduced by  
22 an amount equal to the daily commission rate the temporary labor  
23 service agency is entitled to receive for each day the temporary  
24 laborer performed work for the temporary labor service agency in  
25 the immediately preceding 12 months.

26       Sec. 21. A temporary labor service agency shall provide  
27 adequate seating in the public access area of the offices of the  
28 temporary labor service agency. All notice posting required under  
29 this act must be posted in the public access area. The public

1 access area must allow for access to restrooms and water.

2       Sec. 23. (1) A temporary labor service agency shall register  
3 with the department pursuant to this section and procedures  
4 established by the department. A temporary labor service agency  
5 shall provide proof of an unemployment agency account number issued  
6 under the Michigan employment security act, 1936 (Ex Sess) PA 1,  
7 MCL 421.1 to 421.75, and proof of insurance that complies with  
8 section 611 of the worker's disability compensation act of 1969,  
9 1969 PA 317, MCL 418.611. If a temporary labor service agency's  
10 insurance coverage lapses, the temporary labor service agency shall  
11 report the lapse of coverage to the department, and the department  
12 shall suspend the temporary labor service agency's registration  
13 until the lapse ends.

14       (2) The department may assess a temporary labor service agency  
15 a nonrefundable registration fee of not more than \$1,000.00 per  
16 year and a nonrefundable fee of not more than \$250.00 for each  
17 branch office or location where the temporary labor service agency  
18 regularly contracts with temporary laborers for services. The  
19 department may charge an additional fee if the temporary labor  
20 service agency issues or delivers a check to the department that is  
21 not honored by the financial institution upon which it is drawn.

22       (3) At the time of registration and every year after that, a  
23 temporary labor service agency shall submit to the department a  
24 report that includes the information listed in section 7(1),  
25 categorized by branch office, in the aggregate for all temporary  
26 laborers, on a form as prescribed by the department. The department  
27 shall aggregate the information submitted by all temporary labor  
28 service agencies and make the information available to the public  
29 only on a municipal and county basis. The department shall remove

1 all identifying data before making the information available. The  
2 information and reports submitted to the department under this  
3 subsection are exempt from disclosure under the freedom of  
4 information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this  
5 subsection, "identifying data" means information that does any of  
6 the following:

7 (a) Provides information regarding a temporary laborer or  
8 temporary laborer's service agency's identity.

9 (b) Identifies clients contracting with a temporary labor  
10 service agency or other information that can be traced to a  
11 specific temporary labor service agency or its client.

12 (4) The department shall create and maintain all of the  
13 following at regular intervals on its public website:

14 (a) A list of all registered temporary labor service agencies  
15 whose registration is in good standing.

16 (b) A list of temporary labor service agencies whose  
17 registration has been suspended, including the reason for the  
18 suspension, the date the suspension was initiated, and, if known,  
19 the date the suspension will be lifted.

20 (c) A list of temporary labor service agencies whose  
21 registration has been revoked, including the reason for the  
22 revocation and the date the registration was revoked.

23 (5) A temporary labor service agency shall post at each of its  
24 branch offices, in a position easily accessible to all temporary  
25 laborers, notices as supplied and required by the department that  
26 include a copy or summary of the provisions of this act and a toll-  
27 free telephone number for persons to contact the department  
28 regarding this act.

29 (6) A temporary labor service agency that violates subsection

1 (1) may be ordered to pay a civil fine of not more than \$500.00.  
2 For a continuing violation, each day the violation continues is a  
3 separate and distinct violation. The prosecutor of the county in  
4 which the violation occurred or the attorney general may bring an  
5 action to collect the fine.

6 Sec. 25. A person is not eligible to register a temporary  
7 labor service agency under this act if the person or any of its  
8 officers, directors, partners, or managers or any owner of 25% or  
9 more of a beneficial interest has been involved, as an owner,  
10 officer, director, partner, or manager of a temporary labor service  
11 agency whose registration has been revoked or suspended, without  
12 being reinstated, within the 5 years immediately preceding the  
13 filing of the registration.

14 Sec. 27. (1) The department shall enforce this act. The  
15 department shall conduct investigations in connection with the  
16 administration and enforcement of this act. To ensure compliance  
17 with this act, an investigator of the department may inspect, at  
18 any reasonable time, a location covered by this act or a contract  
19 for the employment of a temporary laborer entered into by a client.

20 (2) The department shall conduct all hearings under this act  
21 pursuant to the contested case procedures of the administrative  
22 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to  
23 determine whether a person violated this act. If the department  
24 determines that a person violated this act, the department may do  
25 any of the following:

26 (a) Issue and cause to be served on a person an order to cease  
27 and desist from further violating this act.

28 (b) Take appropriate action to eliminate the effect of the  
29 violation.

1 (c) Deny, suspend, or revoke a registration under this act.

2 Sec 29. An individual aggrieved by a violation of this act may  
3 do either of the following:

4 (a) File a complaint with the department.

5 (b) Bring a civil action for appropriate injunctive relief or  
6 damages, or both, in the circuit court for the county where the  
7 alleged violation occurred or where the person against whom the  
8 civil complaint is filed resides or has his or her principal place  
9 of business. Filing a complaint with the department under  
10 subdivision (a) is not a prerequisite or a bar to bringing an  
11 action under this subdivision.

12 Sec. 31. (1) A client shall not enter into a contract with a  
13 temporary labor service agency unless the temporary labor service  
14 agency is registered under this act. A client shall verify a  
15 temporary labor service agency's registration with the department  
16 before entering into a contract with the temporary labor service  
17 agency, and on March 1 and September 1 of each year. A temporary  
18 labor service agency shall provide each of its clients with proof  
19 of valid registration at the time of entering into a contract. A  
20 temporary labor service agency shall notify, by telephone and in  
21 writing, each temporary laborer it employs and each client with  
22 whom it has a contract not later than 24 hours after a denial,  
23 suspension, or revocation of its registration. If a temporary labor  
24 service agency's registration is denied, suspended, or revoked, the  
25 temporary labor service agency may not enforce a contract with a  
26 client beginning on the date the denial, suspension, or revocation  
27 becomes effective and until the temporary labor service agency  
28 becomes registered and considered in good standing by the  
29 department.

1           (2) Upon the request of a client, the department shall provide  
2 to the client a list of registered temporary labor service  
3 agencies. The department shall provide on its public website a list  
4 of registered temporary labor service agencies. A client may rely  
5 on information provided by the department or maintained on the  
6 department's public website and must be held harmless if the  
7 information maintained or provided by the department was  
8 inaccurate.

9           (3) A client that violates this section may be ordered to pay  
10 a civil fine of not more than \$500.00. Each day during which a  
11 client contracts with a temporary labor service agency not  
12 registered under this act is a separate and distinct violation. The  
13 prosecutor of the county in which the violation occurred or the  
14 attorney general may bring an action to collect the fine.

15           Sec. 33. A person shall not retaliate or discriminate against  
16 an individual because the individual does or is about to do any of  
17 the following:

18           (a) File a complaint under this act.

19           (b) Testify, assist, or participate in an investigation,  
20 proceeding, or action concerning a violation of this act.

21           (c) Oppose a violation of this act.

22           Sec. 35. The department may promulgate rules to implement this  
23 act pursuant to the administrative procedures act of 1969, 1969 PA  
24 306, MCL 24.201 to 24.328.