

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2816

Introduced by Assembly Member Shelley

February 25, 2002

An act to add Section 3302 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2816, as amended, Shelley. Workers' compensation: contractors: temporary labor.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of or in the course of employment. Recovery under workers' compensation law is the sole and exclusive remedy of an employee or his or her dependents against the employer. The failure to secure workers' compensation as required by the workers' compensation law is a misdemeanor.

Existing law, the Contractor's State License Law, provides for the regulation of licensed contractors.

This bill, for purposes of the workers' compensation law, would provide that ~~a licensed contractor shall be the exclusive employer of an individual and solely required to secure the payment of workers' compensation for that individual's employment if the licensed~~ *when a contractor enters an agreement with a temporary employment agency, employment referral service, labor contractor, or other similar entity for the entity to supply the contractor with an individual to perform acts or contracts under the contractor's license and the contractor is responsible*

for supervising the individual, *the temporary employment agency, employment referral service, labor contractor, or other similar entity shall pay workers' compensation premiums, in accordance with specified criteria, and shall be solely responsible for the individual's workers' compensation.*

~~Because the bill would require a licensed contractor to comply with certain provisions of workers' compensation law, and failure to secure worker's compensation is a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3302 is added to the Labor Code, to
2 read:

3 ~~3302. (a) A licensed contractor shall be the exclusive~~
4 ~~employer of an individual and solely required to secure the~~
5 ~~payment of workers' compensation under this division for that~~
6 ~~individual's employment if the~~

7 3302. (a) *When a licensed contractor enters an agreement*
8 *with a temporary employment agency, employment referral*
9 *service, labor contractor, or other similar entity for the entity to*
10 *supply the contractor with an individual to perform acts or*
11 *contracts for which the contractor's license is required under*
12 *Chapter 9 (commencing with Section 7000) of Division 3 of the*
13 *Business and Professions Code and the licensed contractor is*
14 *responsible for supervising the employee's work, the temporary*
15 *employment agency, employment referral service, labor*
16 *contractor, or other similar entity shall pay workers'*
17 *compensation premiums based on the contractor's experience*
18 *modification rating. The temporary employment agency,*
19 *employment referral service, labor contractor, or other similar*
20 *entity shall obtain the contractor's license number to document*



1 *and verify the correct premium. When the licensed contractor does*
2 *not have an experience modification rating, the workers'*
3 *compensation rates shall be based upon the industry average.*

4 (b) The temporary employment agency, employment referral
5 service, labor contractor, or other similar entity supplying the
6 individual under the conditions specified in subdivision (a) shall
7 ~~not be partially or jointly~~ *be solely* responsible for the individual's
8 workers' compensation, *as specified in subdivision (a).*

9 (c) (1) The right to recover compensation pursuant to this
10 division is the sole and exclusive remedy of the employed
11 individual or his or her dependents, as provided in Section 3602,
12 against the ~~licensed contractor and any temporary employment~~
13 ~~agency, employment referral service, labor contractor, or other~~
14 ~~similar~~ entity described in this section that supplies the individual.

15 (2) Nothing in this subdivision shall relieve the *contractor or*
16 *the* temporary employment agency, employment referral service,
17 labor contractor, or other similar entity from any obligations not
18 involving workers' compensation otherwise imposed by law. The
19 obligations of the ~~licensed contractor temporary employment~~
20 ~~agency, employment referral service, labor contractor, or other~~
21 ~~similar~~ entity to the employee established by this section shall be
22 in addition to any obligations of ~~the supplying that~~ entity not
23 involving workers' compensation otherwise imposed by law.

24 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~
25 ~~Section 6 of Article XIII B of the California Constitution because~~
26 ~~the only costs that may be incurred by a local agency or school~~
27 ~~district will be incurred because this act creates a new crime or~~
28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
30 ~~the Government Code, or changes the definition of a crime within~~
31 ~~the meaning of Section 6 of Article XIII B of the California~~
32 ~~Constitution.~~

