

AMENDED IN SENATE AUGUST 19, 2002

AMENDED IN SENATE JUNE 28, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2816

Introduced by Assembly Member Shelley
(Coauthors: Assembly Members Aroner, Chavez, Diaz,
Firebaugh, Havice, Koretz, and Strom-Martin)
(Coauthor: Senator Romero)

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 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. *This bill would also require these entities to report to insurers certain information pertaining to these workers and the licensed contractors to whom these workers are provided, and allow these entities to pass through costs incurred as a result of this bill to licensed contractors.*

This bill would require the contractor to notify the entity that is supplying the temporary worker pursuant to these provisions when the temporary worker is being used on a public works project or the contractor reassigns the temporary worker to a position other than the classification to which the worker was originally assigned.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: 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) (1) When a licensed contractor enters an
 4 agreement with a temporary employment agency, employment
 5 referral service, labor contractor, or other similar entity for the
 6 entity to supply the contractor with an individual to perform acts
 7 or contracts for which the contractor’s license is required under
 8 Chapter 9 (commencing with Section 7000) of Division 3 of the
 9 Business and Professions Code and the licensed contractor is
 10 responsible for supervising the employee’s work, the temporary
 11 employment agency, employment referral service, labor
 12 contractor, or other similar entity shall pay workers’ compensation
 13 premiums based on the contractor’s experience modification
 14 rating. ~~The temporary employment agency, employment referral~~
 15 ~~service, labor contractor, or other similar entity shall obtain the~~
 16 ~~contractor’s license number to document and verify the correct~~
 17 ~~premium.~~ *rating.*



1 (2) *The temporary employment agency, employment referral*
2 *service, labor contractor, or other similar entity described in*
3 *paragraph (1) shall report to the insurer both of the following:*

4 (A) *Its payroll on a monthly basis in sufficient detail to allow*
5 *the insurer to determine the number of workers provided and the*
6 *wages paid to these workers during the period the workers were*
7 *supplied to the licensed contractor.*

8 (B) *The licensed contractor's name, address, and experience*
9 *modification factor as reported by the licensed contractor.*

10 (C) *The workers' compensation classifications associated with*
11 *the payroll reported pursuant to subparagraph (A).*
12 *Classifications shall be assigned in accordance with the rules set*
13 *forth in the California Workers' Compensation Uniform Statistical*
14 *Reporting Plan published by the Workers' Compensation*
15 *Insurance Rating Bureau.*

16 (b) *The temporary employment agency, employment referral*
17 *service, labor contractor, or other similar entity supplying the*
18 *individual under the conditions specified in subdivision (a) shall*
19 *be solely responsible for the individual's workers' compensation,*
20 *as specified in subdivision (a).*

21 ~~(e) (1) The right to recover compensation pursuant to this~~
22 ~~division is the sole and exclusive remedy of the employed~~
23 ~~individual or his or her dependents, as provided in Section 3602,~~
24 ~~against the temporary employment agency, employment referral~~
25 ~~service, labor contractor, or other similar entity described in this~~
26 ~~section that supplies the individual.~~

27 ~~(2)~~

28 (c) *Nothing in this subdivision shall relieve the contractor or*
29 *the temporary employment agency, employment referral service,*
30 *labor contractor, or other similar entity from any obligations not*
31 *involving workers' compensation otherwise imposed by law. The*
32 ~~obligations of the temporary employment agency, employment~~
33 ~~referral service, labor contractor, or other similar entity to the~~
34 ~~employee established by this section shall be in addition to any~~
35 ~~obligations of that entity not involving workers' compensation~~
36 ~~otherwise imposed by law.~~

37 (d) *A licensed contractor that is using a temporary worker*
38 *supplied pursuant to subdivision (a) shall notify the temporary*
39 *employment agency, employment referral service, labor*



1 contractor, or other similar entity that supplied that temporary
2 worker when either of the following occurs:

3 (1) The temporary worker is being used on a public works
4 project.

5 (2) The contractor reassigns a temporary worker to a position
6 other than the classification to which the worker was originally
7 assigned.

8 *(e) A temporary employment agency, employment referral*
9 *service, labor contractor, or other similar entity may pass through*
10 *to a licensed contractor any additional costs incurred as a result*
11 *of this section.*

