

November 10, 2023

Illinois House and Senate Pass Important Amendment to Day and Temporary Labor Service Act



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On November 9, 2023, the Illinois General Assembly passed HB3641, which among other things, amends the start date for the calculation of the 90 calendar days under the new equal pay and benefit section of the Illinois Day and Temporary Labor Services Act (DTLSA). If signed by Gov. J.B. Pritzker, this amendment will mean that staffing agencies will not have to pay equal pay and benefits to temporary employees until they have actually worked for a third-party client more than 90 workdays after April 1, 2024.

Equal Pay and Benefits

Effective August 4, 2023, the DTLSA was amended to include a section requiring temporary workers assigned to work at a third-party client for more than 90 calendar days to be paid not less than the rate of pay and equivalent benefits as the third-party client's lowest-paid, directly hired employee with the same level of seniority at the company who is performing the same or substantially similar work. In lieu of providing the actual benefits, the staffing agency may pay the hourly cash equivalent of the actual cost of the benefits. For more details, see our previous article on the DTLSA amendments [here](#).

I'm Just a Bill – For Now

Though the Illinois General Assembly has passed HB3641, the Governor must still sign it for it to become effective. Under the Illinois Constitution, the bill must be presented to the Governor within 30 calendar days from November 9, 2023. If the Governor signs it, it becomes law. However, if he does not sign or veto the bill within 60 calendar days from when it is presented to him, it will automatically become law. We anticipate that this bill will become law, either through the Governor's signature or the 60-day lapse.

The Upshot

Companies and staffing agencies who use the services of day and temporary laborers should now have some much-needed breathing room to implement the equal pay and benefits section of the DTLSA. Notably, the bill does not impact any other provision under the statute, and thus third-party clients and staffing agencies subject to the law should proceed as they otherwise would have with regard to all other statutory provisions.

The amendments to the DTLSA are complicated and addressing them will require careful thought and planning. If your company uses temporary workers from a staffing agency, we encourage you to contact us promptly.

If you have any questions or want more information about the amendments to the Illinois Day and Temporary Labor Services Act, please contact a member of Gould & Ratner's [Human Resources and Employment Law Practice](#).