September 14, 2014

Governor Edmund G. Brown, Jr.
State of California
State Capitol
Sacramento, CA  95814

RE: AB 1897

Dear Governor Brown:

The National Coalition for Occupational Safety & Health (National COSH) writes to urge you to sign AB 1897, a bill which would hold companies that outsource jobs to staffing agencies or other temporary help companies responsible for ensuring compliance with employment laws and labor standards designed to protect workers. National COSH links the efforts of local worker health and safety coalitions in communities across the United States, including SoCalCOSH in southern California and Worksafe in the northern part of the state, in advocating for elimination of preventable hazards in the workplace.

Increasingly, rather than hire employees directly, many companies rely on staffing agencies, temporary help firms or labor brokers to supply workers so they can maintain operations. Temporary workers (or “temp workers”) usually work alongside permanent employees, but the terms and conditions of their employment are often far below what is provided to direct hire employees or what the law requires. Usually “lead” or “host” employers set the terms of employment and control the day-to-day tasks performed by temp workers, even though the staffing agency or temporary help firm is the temp worker’s primary employer. A recent study found that in California, employees of staffing companies earn 18 percent less than those direct hire employees. Likewise, employees of staffing agencies are more likely to be injured on the job, often on the first day of an assignment, than are direct hires. Indeed, both OSHA and NIOSH are so concerned about the hazards facing temporary workers that they recently issued a joint advisory recommending safer practices. 

https://www.osha.gov/Publications/OSHA3735.pdf

This fractured employment structure has allowed both staffing agencies and host employers to evade full responsibility for compliance with existing employment laws and labor standards designed to protect all workers. The result is that temp workers often do not benefit from existing labor standards. This is true because the lack of clear lines of legal responsibility for compliance with employment laws and labor standards, as well as the fierce price compensation that results from outsourcing, creates a catch-22 where both the primary and host employers claim the other has compliance duties while neither takes steps to ensure the protection of temp workers.
The fractured employment structure created by increased reliance on staffing agencies means that temporary workers are at increased risk of suffering on-the-job injuries. Often, temp workers are assigned to jobs for which they lack adequate training – sometimes with fatal consequences. When accidents occur, host employers and staffing agencies each claim the other had responsibility for compliance with health and safety laws. Likewise, staffing agency often fail to provide temp workers with personal protective equipment required safely to perform the jobs to which they are assigned or to provide medical surveillance, claiming they are unaware of toxic exposures. Host employers, who are aware of which toxins are present in the workplace, claim no responsibility to provide equipment or exams to temp workers employed by staffing agencies. The result is that temp workers do not get the equipment or medical exams required by law. Injuries and illnesses of temporary workers, if reported at all, may be reported by the staffing agency, not the host employer. This masks hazards at the host employer's worksite and improperly reduces its workers' compensation premiums and experience rating and the chance of a safety and health inspection.

AB 1897 would fix these problems by placing responsibility for health and safety compliance jointly on the host company and staffing agency. AB 1897 would make host employers responsible for ensuring compliance with employment laws and labor standards for the protection of those who work at their facilities. AB 1897 would impose no new regulatory burdens on California employers. It would simply codify a recent decision by the California Occupational Safety & Health Appeals Board (Staffchex Docket No. 10-R4D3-2456-58) and would close the legal loopholes allowing host employers to evade responsibility for compliance with employment laws and labor standards. Temporary workers deserve the same legal protections as are provided to permanent employees. Therefore, we urge you to sign AB 1897.

Sincerely,

Mary Vogel
Executive Director

cc:  Gareth.Elliott@gov.ca.gov
     David.Lanier@labor.ca.gov