

2003 SENATE BILL 397

January 16, 2004 - Introduced by Senators CARPENTER, ROBSON, DECKER, COGGS, ERPENBACH, HANSEN and CHVALA, cosponsored by Representatives SINICKI, BERCEAU, POCAN, TURNER, ZEPNICK, BLACK, MILLER, J. LEHMAN and PLOUFF. Referred to Committee on Labor, Small Business Development and Consumer Affairs.

1 **AN ACT to amend** 103.545 (title); and **to create** 103.545 (1) (c), 103.545 (1) (d),
2 103.545 (1) (e) and 103.545 (4m) of the statutes; **relating to:** the provision of
3 temporary employees to a third-party employer by a temporary help agency for
4 the purpose of replacing employees who are on strike against, or who are locked
5 out by, the third-party employer.

Analysis by the Legislative Reference Bureau

Current law prohibits the recruitment of strikebreakers, which is defined under current law as persons who at least twice during the previous 12-month period have accepted employment for the duration of a strike or a lockout in place of employees who are involved in a strike or a lockout. Specifically, current law prohibits all of the following:

1. An employer from knowingly employing or contracting with another to employ a strikebreaker to replace an employee who is on strike against the employer or who is locked out by the employer.

2. Any person who is not directly involved in a strike or lockout from recruiting a strikebreaker for employment or from securing or offering to secure employment for a strikebreaker for the purpose of having the strikebreaker replace an employee in an industry or establishment where a strike or lockout exists.

3. Any person, including a licensed employment agent, from transporting or arranging to transport to this state a strikebreaker for the purpose of replacing an employee in an industry or establishment where a strike or lockout exists.

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This bill prohibits a temporary help agency from providing a temporary employee to a third-party employer for the purpose of replacing an employee who is on strike against, or who is locked out by, the third-party employer. Specifically, the bill prohibits all of the following:

1. An employer from knowingly contracting with a temporary help agency, and a temporary help agency from knowingly contracting with an employer, for the provision to the employer by the temporary help agency of a temporary employee to replace an employee who is on strike against the employer or who is locked out by the employer.

2. A temporary help agency from recruiting an individual for employment, from securing or offering to secure employment for an individual, or from transporting or arranging to transport an individual to a place where a strike or lockout exists for the purpose of providing the individual to a third-party employer to replace an employee who is on strike against the third-party employer or who is locked out by the third-party employer.

The bill, however, does not prohibit the continued employment of a temporary employee by a third-party employer if on the day before a strike or lockout begins the temporary employee has already been assigned to render services to, for, or under the direction of the third-party employer.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.545 (title) of the statutes is amended to read:

2 **103.545** (title) **Recruitment of strikebreakers and temporary**
3 **replacement employees.**

4 **SECTION 2.** 103.545 (1) (c) of the statutes is created to read:

5 103.545 **(1)** (c) "Temporary employee" means an individual who is employed by
6 a temporary help agency to render part-time or temporary services to, for, or under
7 the direction of a 3rd-party employer under a contract between the temporary help
8 agency and the 3rd-party employer.

9 **SECTION 3.** 103.545 (1) (d) of the statutes is created to read:

10 103.545 **(1)** (d) "Temporary help agency" means an employer that is engaged
11 in the business of employing individuals to render part-time or temporary services

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1 to, for, or under the direction of a 3rd-party employer under a contract between the
2 employer and the 3rd-party employer.

3 **SECTION 4.** 103.545 (1) (e) of the statutes is created to read:

4 103.545 (1) (e) "Third-party employer" means an employer that contracts with
5 a temporary help agency for the employment of individuals to render part-time or
6 temporary services to, for, or under the direction of the employer under a contract
7 between the temporary help agency and the employer.

8 **SECTION 5.** 103.545 (4m) of the statutes is created to read:

9 103.545 (4m) (a) No employer may knowingly contract with a temporary help
10 service, and no temporary help service may knowingly contract with an employer, for
11 the provision to the employer by the temporary help agency of a temporary employee
12 to replace an employee who is on strike against the employer or who is locked out by
13 the employer.

14 (b) No temporary help agency may recruit any individual for employment,
15 secure or offer to secure employment for any individual, or transport or arrange to
16 transport any individual to a place where a strike or lockout exists for the purpose
17 of providing the individual to a 3rd-party employer to replace an employee who is
18 on strike against the 3rd-party employer or who is locked out by the 3rd-party
19 employer.

20 (c) This subsection does not prohibit the continued employment of a temporary
21 employee by a 3rd-party employer if on the day before a strike or lockout begins the
22 temporary employee has already been assigned to render services to, for, or under the
23 direction of the 3rd-party employer.

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(END)