

# Staffing Agencies Take Note: Illinois Temporary Worker Equal Benefits Mandate Withstands Legal Challenge

## Labor & Employment Law Update

By Kelly Haab-Tallitsch and Kevin Kleine on June 5, 2025

On May 23, 2025, a federal court denied efforts to enjoin the Illinois Department of Labor (IDOL) from enforcing key provisions and amendments to the Illinois Day and Temporary Labor Services Act (the “Act”) that were signed into law by Governor Pritzker on August 9, 2024.

### Illinois Day and Temporary Labor Services Act Background

In August 2023, the Act was amended to require staffing agencies to provide temporary workers assigned to the same client for more than 90 days (later changed to 720 hours in a 12-month period) the same pay and level of benefits (or cash equivalent) as the client’s lowest paid employee with the same seniority performing substantially similar work under similar conditions.

In March, 2024, a federal court issued an injunction preventing the IDOL from enforcing the equal benefits provisions, reasoning they were preempted by federal law under the Employee Retirement Income Security Act of 1974 (ERISA).

The Illinois General Assembly amended the Act in May 2024, imposing new and additional requirements on staffing agencies and third-party user clients, including amendments to clarify the equal pay and benefits provisions. The amendments were signed into law by Governor Pritzker on August 9, 2024.

Based on the federal court’s March 2024 injunction and ruling, it was unclear whether the IDOL would ultimately be able to enforce the changes made to the equal benefits provisions under the Act. However, the same federal court held on May 23, 2025 that the August 9, 2024 equal benefits amendments are **NOT** preempted by ERISA, allowing the IDOL to enforce the equal benefits mandate.

### What This Means Going Forward

The court’s May 23 decision may be appealed to the federal appeals court. However, without a ruling preventing the IDOL from enforcing the equal benefits mandate under the Act, **staffing agencies and third-party user clients must take**

***action to begin complying with the Act's equal benefits requirement.***

The Act requires third-party clients to provide staffing agencies with “all necessary” information to determine the value of benefits. In light of the May 23 decision, staffing agencies and user clients should immediately open up a dialogue to coordinate sharing information for the agencies to make the necessary determinations and calculations for providing temporary workers with similar benefits or the cash equivalent.

As of now, there are no administrative rules in effect that interpret the August 9 amendments to the Act. Many questions regarding the requirement to provide temporary workers with “substantially similar benefits” still remain unanswered. Therefore, it is critical for staffing agencies and user clients to consult experienced labor and employment counsel to understand their obligations under the Act and navigate compliance with the amendments.

The IDOL will likely issue its proposed administrative rules in the coming weeks. Be assured we will provide updates as they develop.

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