

1-1 By: Darby (Senate Sponsor - Lucio) H.B. No. 3416
1-2 (In the Senate - Received from the House May 10, 2021;
1-3 May 17, 2021, read first time and referred to Committee on Natural
1-4 Resources & Economic Development; May 21, 2021, reported favorably
1-5 by the following vote: Yeas 9, Nays 0; May 21, 2021, sent to
1-6 printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Birdwell</u>	X		
1-10	<u>Zaffirini</u>	X		
1-11	<u>Alvarado</u>	X		
1-12	<u>Hancock</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Hughes</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Lucio</u>	X		
1-17	<u>Seliger</u>	X		

1-18 A BILL TO BE ENTITLED
1-19 AN ACT

1-20 relating to disclosures regarding indemnification obligations and
1-21 insurance coverage in connection with provision of services
1-22 pertaining to wells or mines by certain subcontractors.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Title 6, Civil Practice and Remedies Code, is
1-25 amended by adding Chapter 127A to read as follows:

1-26 CHAPTER 127A. DISCLOSURES REGARDING INDEMNIFICATION OBLIGATIONS
1-27 AND INSURANCE COVERAGE REGARDING WELL OR MINE SERVICES PROVIDED BY
1-28 CERTAIN SUBCONTRACTORS

1-29 Sec. 127A.001. DEFINITIONS. In this chapter:

1-30 (1) "Temporary placement service" means an entity or
1-31 other person that employs individuals or contracts with another
1-32 entity or person to refer or assign personnel to the placement
1-33 service's clients to support or supplement the clients' workforce
1-34 in a special work situation, including:

1-35 (A) an employee absence;

1-36 (B) a temporary skill shortage;

1-37 (C) a seasonal or cyclical workload;

1-38 (D) work requiring uniquely skilled personnel;

1-39 or

1-40 (E) a special assignment or project.

1-41 (2) "Temporary subcontractor" means an independent
1-42 contractor who, in connection with performing well or mine
1-43 services:

1-44 (A) is referred to or placed by a temporary
1-45 placement service with the placement service's client; or

1-46 (B) has entered into an agreement with a
1-47 temporary placement service to provide those services to the
1-48 placement service's client.

1-49 (3) "Well or mine service" has the meaning assigned by
1-50 Section 127.001.

1-51 Sec. 127A.002. DISCLOSURE REGARDING TEMPORARY
1-52 SUBCONTRACTOR INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE
1-53 REQUIREMENTS. (a) Before a temporary placement service refers or
1-54 assigns a temporary subcontractor to the placement service's client
1-55 to perform well or mine services, the placement service shall
1-56 provide a written disclosure to the subcontractor that:

1-57 (1) describes the subcontractor's indemnification
1-58 obligations, if any, to the placement service and to the placement
1-59 service's client in connection with the services the subcontractor
1-60 will provide to the client;

1-61 (2) describes any insurance policy, including the

2-1 amount of coverage and any limits on coverage, that is provided for
2-2 the benefit of the subcontractor by the placement service or the
2-3 placement service's client, or both, in connection with the
2-4 services the subcontractor will provide to the client; and

2-5 (3) expressly states whether and to what extent any
2-6 insurance policy described by Subdivision (2) will cover the
2-7 subcontractor's tort liability and contractual indemnity
2-8 obligations arising out of the performance of the services by the
2-9 subcontractor for the placement service's client or clients.

2-10 (b) The disclosure required under Subsection (a) may state
2-11 that the disclosure does not alter, amend, or otherwise modify the
2-12 terms of any agreement governing services provided by the temporary
2-13 subcontractor or any insurance policy described by Subsection
2-14 (a)(2), provided that the temporary placement service is
2-15 responsible for the content of the disclosure.

2-16 (c) A temporary placement service shall:

2-17 (1) provide the disclosure required under Subsection
2-18 (a) to a temporary subcontractor as a separate document from any
2-19 agreement entered into with the subcontractor by the placement
2-20 service or the placement service's client; and

2-21 (2) ensure that the disclosure is written in plain
2-22 English and in a manner that is clear, concise, and designed to
2-23 enable the temporary subcontractor to understand the
2-24 subcontractor's contractual indemnity obligations, if any, and any
2-25 insurance policy provided for the benefit of the subcontractor in
2-26 connection with well or mine services to be performed by the
2-27 subcontractor.

2-28 (d) A temporary placement service may satisfy the
2-29 requirement to describe an insurance policy under Subsection (a)(2)
2-30 by providing to the temporary subcontractor a certificate of
2-31 insurance evidencing applicable coverage and limits.

2-32 Sec. 127A.003. DISCLOSURE REQUIREMENTS FOR ONGOING
2-33 INSURANCE POLICY. A temporary placement service that provides a
2-34 disclosure to a temporary subcontractor under Section 127A.002 that
2-35 states that an insurance policy described in that disclosure that
2-36 is provided for the benefit of the temporary subcontractor remains
2-37 in effect for a specified time period and with respect to a
2-38 specified client or clients is not required to provide that
2-39 subcontractor with an additional disclosure under Section 127A.002
2-40 for future services provided by the subcontractor to that client or
2-41 those clients until:

2-42 (1) the insurance policy is no longer in effect; or

2-43 (2) the placement service is required to provide the
2-44 subcontractor a new disclosure because of a change concerning the
2-45 insurance policy as provided under Section 127A.004.

2-46 Sec. 127A.004. NOTICE REQUIRED FOR CERTAIN CHANGES RELATED
2-47 TO INSURANCE POLICY. A temporary placement service shall provide a
2-48 temporary subcontractor who is provided a disclosure of a provided
2-49 insurance policy under Section 127A.002 a separate written notice
2-50 of a cancellation or nonrenewal of the policy or a material
2-51 reduction in coverage under the insurance policy not later than the
2-52 30th day before the date the cancellation or nonrenewal of the
2-53 policy or the material reduction in insurance coverage takes
2-54 effect.

2-55 SECTION 2. The change in law made by this Act applies only
2-56 to an agreement entered into on or after the effective date of this
2-57 Act.

2-58 SECTION 3. This Act takes effect September 1, 2021.

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