
The Subcontracted Economy: National Trends and Strategies to Protect Workers and Strengthen the Economic Recovery

California State Assembly Labor Committee
Confronting the Challenges of a Subcontracted Economy:
The Experience of Warehouse Workers in the Logistics
Industry as a Case Study (February 15, 2012)

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Contingent Work - The “Gloves Off” Economy

- Contingent work accounted for 31% of all employment in 2005:
 - Subcontracting
 - Temporary Help
 - Professional Employer Organizations (PEO)
 - Independent Contractors
 - Part-Time Workers
 - Seasonal/Casual Labor
- Problem clients-employers evade their responsibilities:
 - To law-abiding employers, creating unfair competition.
 - To workers and communities, driving down wages, benefits and working conditions.
 - To governments and the public by failing to pay their fair share of taxes and tapping public resources.

The Profile of California's Vulnerable Contingent Workforce

- Largely immigrants (37% Latino v. 30% of all other workers)
- Largely less educated (45% High School or less v. 35% of all other workers)
- Largely lower income (27% earn less than \$25,000 v. 13% of all other workers)

Source: U.S. Census survey of contingent workers (2005)

The Pervasive Scope of Subcontracting

- Tech Sector
- Retail
- Agriculture
- Construction
- Hospitality
- Janitorial Services
- Health Care
- Trucking/
Transportation
- Military Operations

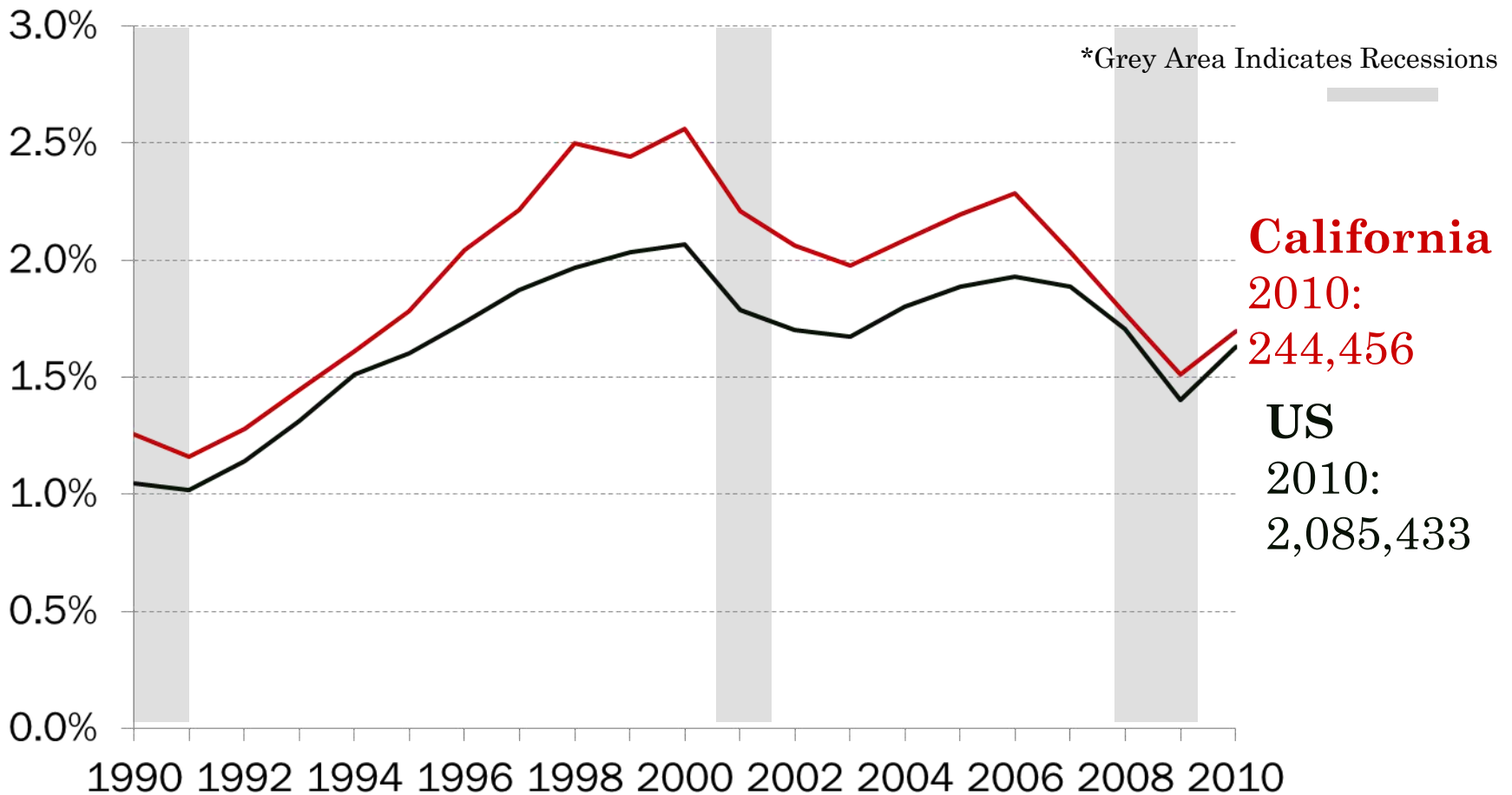


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The Canary in the Coal Mine - Temp Help Services as a Share of Total Employment

(UC Berkeley Labor Center Analysis)



Source: Quarterly Census of Employment and Wages, annual average employment in Temporary Help Services Employment (NAICS 56132) as a share of annual average total covered employment.

National Enforcement Highlights

- Courts enforcing “joint liability” against clients and their contractors (e.g., Verizon cable installers, Walmart maintenance contractors)
- DOL targets major subcontracting industries and enforces FLSA “hot goods” provision
- DOL-IRS Independent Contractor Misclassification Task Force
- DOL-State independent contractor MOUs
- IRS independent contractor amnesty program
- New H-2B regulations protecting worker rights

State Enforcement Highlights

- Illinois Staffing Agency Law (80 ILCS 175)
- Immigrant worker retaliation protections (Hoffman “Fix”/U-Visa State MOUs)
- Joint AG multi-state litigation (Fed-Ex)
- New York DOL Wage Watch Strike Force/NY AG Retaliation Strike Force
- Active state task forces targeting problem industries and worker rights abuses

Illinois Temp Law Maximizes Transparency and Client Company Accountability

- Client company can only contract with registered staffing agencies that are in good standing (posted on-line by the state).
- Client company required to maintain and remit records on hours worked by temps to the staffing agency.
- State has right to inspect client company contracts with staffing agencies.
- Authorizes private right of action and penalties against the client company and staffing agencies.

Next Steps to Protect California Workers and Strengthen the Economy

- Expand enforcement of California laws imposing joint liability, client accountability and protection against worker retaliation.
- Restrict state contracts to firms that demonstrate they and their subcontractors have not violated labor laws.
- Adopt new laws improving transparency and accountability over client companies and the temp industry.
- Reevaluate the state's unemployment insurance laws to level the playing field for temp workers and ensure the temp industry pays its fair share of taxes.