

AMENDED IN SENATE AUGUST 19, 1996
AMENDED IN SENATE AUGUST 12, 1996
AMENDED IN SENATE JULY 2, 1996
AMENDED IN ASSEMBLY MAY 20, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996
AMENDED IN ASSEMBLY MARCH 25, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2457

**Introduced by Assembly Members Figueroa, Baldwin,
Bowen, Davis, Friedman, Gallegos, Goldsmith, Katz, Lee,
Sweeney, and Villaraigosa**

(Coauthors: Senators Alquist, Hayden, Hughes, O'Connell,
Solis, and Watson)

February 20, 1996

An act to add Section 6108 to the Public Contract Code,
relating to state procurement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2457, as amended, Figueroa. State procurement:
forced, convict, and indentured labor.

Existing law sets forth the general requirements for
contracts for the procurement of equipment, supplies, and
materials by state agencies.

This bill would require those contracts, with a specified exception, to ~~contain a statement by the contractor, attesting~~ *specify* that no foreign-made equipment, materials, or supplies furnished to the state pursuant to the contract ~~are~~ *may be* produced by forced labor, as defined, convict labor, or indentured labor under penal sanction, and would provide for sanctions to be imposed on contractors who know or should know that the equipment, materials, or supplies furnished to the state have been produced by that labor, when ~~providing a statement~~ *entering into a contract* pursuant to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and
 2 declares as follows:
 3 (a) The people of California do not support the import
 4 of any goods made by forced, convict, or indentured
 5 labor, not only because it is a cruel suppression of the
 6 human right of free labor and employment practices, but
 7 also because it creates an unfair trade advantage for the
 8 forced, convict, or indentured labor country.
 9 (b) The federal Smoot-Hawley Tariff Act of 1930,
 10 while prohibiting the importation of any goods produced
 11 in whole or in part by forced, convict, or indentured
 12 labor, does not require importers to provide certificates
 13 of origin at the time of importation to affirm and
 14 guarantee no forced, convict, or indentured labor
 15 content.
 16 (c) The federal Smoot-Hawley Tariff Act of 1930 also
 17 does not require the United States Customs Service to
 18 have an active, self-initiated foreign surveillance
 19 program of detecting forced, convict, or indentured
 20 labor-made goods and preventing their entry into the
 21 United States, but relies primarily upon complaints made
 22 by the public or other interested groups.
 23 (d) The State of California wholeheartedly supports
 24 the prohibition on imports produced in whole or in part



1 by forced, convict, or indentured labor and shall not
2 knowingly acquire any of those goods.

3 SEC. 2. Section 6108 is added to the Public Contract
4 Code, to read:

5 6108. (a) Every contract entered into by any state
6 agency for the procurement of equipment, materials, or
7 supplies, other than procurement related to a public
8 works contract, shall ~~contain a statement in which the~~
9 ~~contractor~~ *attests specify* that no foreign-made
10 equipment, materials, or supplies furnished to the state
11 pursuant to the contract ~~have been~~ *may be* produced in
12 whole or in part by forced labor, convict labor, or
13 indentured labor under penal sanction. *The contractor*
14 *shall agree to comply with this provision of the contract.*

15 (b) (1) Any contractor contracting with the state who
16 knew or should have known that the foreign-made
17 equipment, materials, or supplies furnished to the state
18 were produced in whole or part by forced labor, convict
19 labor, or indentured labor under penal sanction, when
20 ~~providing a statement~~ *entering into a contract* pursuant
21 to subdivision (a), may, subject to subdivision (c), have
22 any or all of the following sanctions imposed:

23 (A) The contract under which the prohibited
24 equipment, materials, or supplies were provided may be
25 voided at the option of the state agency to which the
26 equipment, materials, or supplies were provided.

27 (B) The contractor may be assessed a penalty which
28 shall be the greater of one thousand dollars (\$1,000) or an
29 amount equaling 20 percent of the value of the
30 equipment, materials, or supplies that the state agency
31 demonstrates were produced in whole or in part by
32 forced labor, convict labor, or indentured labor under
33 penal sanction and that were supplied to the state agency
34 under the contract.

35 (C) The contractor may be removed from the bidder's
36 list for a period not to exceed 360 days.

37 (2) Any moneys collected pursuant to this subdivision
38 shall be deposited into the General Fund.

39 (c) (1) When imposing the sanctions described in
40 subdivision (b), the contracting agency shall notify the



1 contractor of the right to a hearing if requested within 15
2 days of the date of the notice. The hearing shall be before
3 an administrative law judge of the Office of
4 Administrative Hearings in accordance with the
5 procedures specified in Chapter 5 (commencing with
6 Section 11500) of Part 1 of Division 3 of Title 2 of the
7 Government Code. The administrative law judge shall
8 take into consideration any measures the contractor has
9 taken to ensure compliance with this section, and may
10 waive any or all of the sanctions if it is determined that the
11 contractor has acted in good faith.

12 (2) The ~~contractor~~ agency shall be assessed the cost of
13 the administrative hearing, unless the ~~contractor~~ agency
14 has prevailed in the hearing, *in which case the contractor*
15 *shall be assessed the cost of the hearing.*

16 (d) Any state agency that investigates a complaint
17 against a contractor for violation of this section shall limit
18 its investigation to evaluating the information provided
19 by the person or entity submitting the complaint and the
20 information provided by the contractor.

21 (e) For purposes of this section, the term “forced
22 labor” shall have the same meaning as in Section 1307 of
23 Title 19 of the United States Code.

