

AMENDED IN SENATE MARCH 27, 2000

SENATE BILL

No. 1888

Introduced by Senator Hayden

February 24, 2000

An act to amend Section 6108 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1888, as amended, Hayden. Public contracts: sweatshop labor.

Under existing law, state agencies must provide in every contract for procurement that no equipment, materials, or supplies provided under the contract are produced by forced labor, convict labor, or indentured labor under penal sanction. This prohibition does not apply to procurement related to a public works contract.

This bill would *require the prohibition to also include child labor in violation of the standards of the International Labor Organization and would* state the intent of the Legislature to adopt a procurement policy prohibiting procurement of materials produced with the use of sweatshop labor, forced labor, convict labor, or indentured labor under penal sanctions.

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

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

1 SECTION 1. It is the intent of the Legislature to
2 establish a procurement policy of the State of California
3 prohibiting purchase of any materials, goods, or services
4 produced by or with the benefit of sweatshop labor,
5 forced labor, convict labor, or indentured labor under
6 penal sanctions.

7 *SEC. 2. Section 6108 of the Public Contract Code is*
8 *amended to read:*

9 6108. (a) Every contract entered into by any state
10 agency for the procurement of equipment, materials, or
11 supplies, other than procurement related to a public
12 works contract, shall specify that no foreign-made
13 equipment, materials, or supplies furnished to the state
14 pursuant to the contract may be produced in whole or in
15 part by forced labor, convict labor,~~or~~ indentured labor
16 under penal sanction, *or child labor in violation of the*
17 *standards of the International Labor Organization, or*
18 *with the benefit of forced labor; convict labor; indentured*
19 *labor under penal sanction, or the child labor prohibited*
20 *by the International Labor Organization.* The contractor
21 shall agree to comply with this provision of the contract.

22 (b) (1) Any contractor contracting with the state who
23 knew or should have known that the foreign-made
24 equipment, materials, or supplies furnished to the state
25 were produced in ~~whole or part by forced labor, convict~~
26 ~~labor, or indentured labor under penal sanction,~~ *violation*
27 *of the conditions specified in subdivision (a)* when
28 entering into a contract pursuant to subdivision (a), may,
29 subject to subdivision (c), have any or all of the following
30 sanctions imposed:

31 (A) The contract under which the prohibited
32 equipment, materials, or supplies were provided may be
33 voided at the option of the state agency to which the
34 equipment, materials, or supplies were provided.

35 (B) The contractor may be assessed a penalty which
36 shall be the greater of one thousand dollars (\$1,000) or an
37 amount equaling 20 percent of the value of the
38 equipment, materials, or supplies that the state agency



1 demonstrates were produced in whole or in part by
2 forced labor, convict labor, or indentured labor under
3 penal sanction and that were supplied to the state agency
4 under the contract.

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

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

9 (c) (1) When imposing the sanctions described in
10 subdivision (b), the contracting agency shall notify the
11 contractor of the right to a hearing if requested within 15
12 days of the date of the notice. The hearing shall be before
13 an administrative law judge of the Office of
14 Administrative Hearings in accordance with the
15 procedures specified in Chapter 5 (commencing with
16 Section 11500) of Part 1 of Division 3 of Title 2 of the
17 Government Code. The administrative law judge shall
18 take into consideration any measures the contractor has
19 taken to ensure compliance with this section, and may
20 waive any or all of the sanctions if it is determined that the
21 contractor has acted in good faith.

22 (2) The agency shall be assessed the cost of the
23 administrative hearing, unless the agency has prevailed
24 in the hearing, in which case the contractor shall be
25 assessed the cost of the hearing.

26 (d) Any state agency that investigates a complaint
27 against a contractor for violation of this section shall limit
28 its investigation to evaluating the information provided
29 by the person or entity submitting the complaint and the
30 information provided by the contractor.

31 (e) For purposes of this section, the term "forced
32 labor" shall have the same meaning as in Section 1307 of
33 Title 19 of the United States Code.

