



ASSEMBLY MEMBER

**Freddie Rodriguez**

DISTRICT 52

## FACT SHEET

### Assembly Bill 364 (Rodriguez)

#### Foreign Labor Contractors

*Introduced February 1, 2021*

#### Summary

In 2014, California passed SB 477 (Steingberg, chapter 711, Statutes 2004) which provided comprehensive protections to temporary workers coming to California. A drafting error resulted in the bill being interpreted to cover only H2-B workers, limiting coverage to only 5000 of the almost 200,000 temporary workers who come to California annually, all of whom were originally intended to be protected. During COVID-19 and its aftermath, AB 364 ensures that **all** of these essential workers, who are often vulnerable to labor exploitation and human trafficking because of the terms and conditions of their temporary work visas, have comprehensive protections. Clarifying that SB 477 covers all temporary visa categories (except J-1), i.e., A-3, B-1, H-1B, H-1C, H-2A, H-2B, L-1, O-1, 1, P-3, and TN temporary work visas, is imperative.

#### Background

Internationally recruited workers face common patterns of abuse related to their recruitment, including fraud, discrimination, economic coercion, retaliation, blacklisting, forced labor, debt bondage and human trafficking, regardless of visa category, employment sector, race, gender, or national origin. While one often thinks that undocumented immigrants are those most susceptible to human trafficking, reports show that labor trafficking is flourishing in the context of the documented visa programs. Updating SB 477's protections to ensure they cover all temporary visa categories is essential to protect these workers in California as the complex federal system has failed them.

SB 477's goal as enacted expands regulation of recruiters, known as foreign labor contractors or FLCs by requiring:

- A universal standard that all workers coming to California are not required to pay any recruitment fees for a legal work visa;

- Registration of FLCs with the CA Labor Commissioner;
- Public listing of registered FLCs in California available on the CA Labor Commissioner's website so workers and employers know who are legitimate FLCs;
- FLCs to post bond and provide an address where they can accept service of process when they register in California;
- Employers to use a California-registered FLC to take advantage of the safe harbor provision of the bill exempting them from joint and several liability for the conduct of otherwise unregistered FLCs they might engage; and
- FLCs to comprehensively disclose working terms and conditions to foreign workers during the recruiting process through a written contract in the worker's native language provided to both the worker and the CA Labor Commissioner.

The protections in SB 477 are completely separate from current provisions in California law that address farm labor contracting as they cover activities exclusively involving international labor recruitment.

#### This Legislation

AB 364 is beneficial to both workers and businesses in California. It would ensure that temporary workers have the information necessary to protect themselves from fraudulent labor recruiters and ensures they are not vulnerable to exploitation and human trafficking resulting from the payment of illegally assessed recruiting fees. This bill helps businesses that recruit their own temporary workers or who use legitimate FLCs by ensuring that they do not have to compete with unscrupulous FLCs who fraudulently procure many of the limited temporary work visas and exploit both employers and workers by charging illegal fees for their

services. It also protects businesses who use a registered FLC by providing immunity from liability for the acts of FLCs who do not comply with SB 477's requirements.

## **Support**

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Coalition to Abolish Slavery & Trafficking (CAST) (Co-Sponsor)

Alameda District Attorney's Office (Co-Sponsor)

San Diego District Attorney's Office (Co-Sponsor)

Alliance to End Slavery & Trafficking( ATEST)

Centro de los Derechos del Migrante, Inc

Clergy and Laity United for Economic Justice

Dolores Street Community Services

Economic Policy Institute Policy Center

Employee Rights Center

Freedom United

Generate Hope

Interfaith Center on Corporate Responsibility

La Raza Central Legal

Legal Aid at Work

National Organization for Women, Hollywood Chapter

North County Lifeline

Pilipino Workers Center of Southern California

Philippine Nurses Association of America

Justice in Motion

Santa Clara County Wage Theft Coalition

Strength United

Verite

## **Contact Information**

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