



COALITION TO
ABOLISH SLAVERY
& TRAFFICKING

AB 1913 (KALRA) FOREIGN LABOR CONTRACTORS

LEGISLATIVE FIX FACT SHEET FOR SB 477

Background and goals of SB 477

While many foreign labor contractors (FLCs) behave ethically and lawfully, others do not. They misuse U.S. visa programs to exploit workers, often charging exorbitant fees for their services, forcing workers into debt bondage, falsifying documents, and deceiving workers about the terms and conditions of proposed employment.

These unscrupulous FLCs threaten workers with blacklisting, discrimination, and other forms of retaliation, including the imposition of additional fees and violence against themselves, family members, or their home communities for reporting abuses or seeking to escape their fraudulently induced servitude.

California is the leading destination state in the U.S. for temporary foreign workers. Legislative oversight of FLCs is needed to protect foreign workers from exploitation.

Originally drafted as SB 516, the legislation has the goal of expanding regulation of foreign labor contractors by requiring: 1) registration of FLCs, 2) use of registered FLCs by California employers, 3) comprehensive disclosure of working terms and conditions to foreign workers during the recruiting process, and 4) posting of bonds and imposition of penalties for failure to comply with the law's requirements.

Legislative History

SB 516 passed both houses of the Legislature in 2013 with bipartisan support (Sen: 38-0; Ass: 54-24).

In October 2013, the Governor returned the bill requesting the Legislature to ensure that the fees collected from the registration program would cover the costs of implementation.

SB 477 was drafted to address the governor's concerns by authorizing the California Department of Labor to set the registration fees at the level necessary to support the ongoing costs of the program.

SB 477 passed both houses of the Legislature in 2014 with overwhelming bipartisan support (Sen: 34-0; Ass: 66-10).

Having received fiscal analysis proving the bill as applied across visa categories would pay for itself, the Governor signed SB 477 into law in September 2014 with an effective date of July 1, 2016.

SB 477 is the first law on either the federal or state level requiring registration of FLCs.



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SB 1913 Proposed legislative fix to remove a potential obstacle to implementation

The stated objectives of SB 477’s sponsors and original supporters, as well as the bill’s legislative history and accompanying fiscal analysis, make clear that SB 477 was designed to cover **all** FLCs regardless of the visa categories for which an FLC recruits non-immigrant workers with two limited exceptions.¹

In preparing the regulations implementing SB477, however, the Labor Commissioner discovered that, as a result of an error during the bill -drafting process, a conflict between an existing provision of the law governing FLCs and those enacted pursuant to SB 477 potentially allows a reading of the statute that would limit the law’s application to FLCs recruiting non-agricultural workers, and under the most narrow interpretation, solely to FLCs recruiting H-2B workers.

While the bill’s sponsors and original supporters feel strongly that no legislative action is necessary, to remove any doubts about the law’s coverage, the most straight-forward legislative fix as introduced in SB 1913 is to:

*Delete Sec.9998 which reads:

This chapter shall apply only to “nonagricultural workers” as defined by Section 1101(a)(15)(H)(ii)(b) of Title 8 of the federal Immigration and Nationality Act. It shall not apply to any person duly licensed as a “farm labor contractor” as that term is defined in Section 1682 of the Labor Code nor shall it apply to any person exempt from the licensing requirement in Section 1682.5 of the Labor Code or to any employer employing agricultural workers as defined by Section 1101(a)(15)(H)(ii)(a) of Title 8 of the federal Immigration and Nationality Act.

Need for immediate action

Without a legislative solution, the potential for conflict in the Law’s scope threatens to derail implementation of this precedent-setting legislation which was scheduled to take effect July 1, 2016.

In the absence of a clarifying legislative fix, the Labor Commissioner, Division of Labor Standards Enforcement feels constrained to limit the reach of the regulations solely to FLCs recruiting workers pursuant to H-2B visas.

¹ These exceptions are limited to FLCs bringing workers to the U.S. pursuant to J-1 visas and talent agency FLCs who are covered by a licensing requirement imposing more stringent obligations than those included in SB477.



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With this extremely curtailed coverage, the Division of Labor Standards Enforcement believes there will not be sufficient FLC registrants to fund the ongoing costs of the program thereby jeopardizing implementation of the law in its entirety.

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Coalition to Abolish Slavery and Trafficking

Systemic change is at the core of CAST's mission. Taking a survivor-centered approach to ending modern slavery, CAST has a proven track record of working directly with survivors of human trafficking which builds an important bridge between practice and policy to inform effective policy initiatives. . By developing broad-based partnerships, CAST effectively advocates for policies that work to end human trafficking and help survivors rebuild their lives.