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## AB-381 State contracts: certification process: forced labor and human trafficking. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

### ASSEMBLY BILL

**NO. 381**

Introduced by Assembly Member Stefani

February 03, 2025

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

### LEGISLATIVE COUNSEL'S DIGEST

AB 381, as introduced, Stefani. State contracts: certification process: forced labor and human trafficking.

Existing law requires a contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, to require that a contractor certify that nothing furnished to the state pursuant to the contract has been laundered or produced by certain types of labor, including forced labor, as defined. Existing law makes any person who falsely certifies pursuant to these provisions guilty of a misdemeanor.

This bill would revise the above contracting requirements to also require a contractor to certify that the contract complies with specified requirements relating to human trafficking, including certain prohibitions on contractors, contractor employees, subcontractors, subcontractor employees, and their agents. The bill would revise the definition of forced labor to mean knowingly providing or obtaining labor or services of a person by, among other things, threats of serious harm to, or physical restraint against, that person or another person.

This bill would require contractors and subcontractors to notify employees of specified prohibited activities and the actions that may be taken against them for violations. The bill would provide that a contractor is ineligible for, and shall not bid on, or submit a proposal for, a contract under these provisions if the contractor has failed to certify its compliance. The bill would also require a contractor to exercise due diligence in ensuring that its subcontractors comply with those requirements, including requiring each subcontractor to sign a certification. By expanding the scope of a crime, the bill would impose a state-mandated local program.

This bill would require, before a contract or subcontract is awarded, a proposed contractor or proposed subcontractor to provide a certification to the contracting officer or contractor, as applicable, that states the

contractor or subcontractor has implemented a compliance plan, as specified, and has conducted due diligence that either (1) to the best of the contractor's or subcontractor's knowledge and belief, certain parties have not engaged in any specified prohibited activities or (2) if the contractor or subcontractor is aware of abuses relating to the specified prohibited activities, then certain parties have taken the appropriate remedial and referral actions.

This bill would require a contractor or subcontractor to take specified actions to ensure compliance with the above-described provisions, including requiring the contractor or subcontractor to disclose to the contracting officer and the state agency with oversight information sufficient to identify the nature and extent of a violation of a prohibited activity. The bill would specify certain actions a contractor would be required to take if a contractor, contractor employee, subcontractor, subcontractor employee, or agent violates these provisions or specified provisions, including, among others, notifying its employees of the actions that will be taken against the employee or agent for violations.

Existing law authorizes certain sanctions to be imposed if a contractor knew or should have known that the apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state were laundered or produced in violation of specified conditions, including, among others, voiding the contract under which the prohibited apparel, garments, or corresponding accessories, equipment, materials, or supplies were laundered or provided at the option of the state agency and removing the contractor from the bidder's list for a period not to exceed 360 days.

This bill would authorize additional sanctions, including, among others, requiring a contractor to remove a contractor employee from the performance of the contract, requiring the contractor to terminate a subcontractor, and suspending contract payments until the contractor has taken appropriate remedial action. The bill would also specify that these requirements govern contracts and subcontracts entered into by a state agency, regardless of place of performance.

Existing law authorizes a contractor to request a hearing before an administrative law judge when sanctions are imposed. Existing law requires the administrative law judge to consider any measures the contractor has taken to ensure compliance with the above-described provisions and authorizes the administrative law judge to waive any or all sanctions if it is determined that the contractor has acted in good faith.

This bill would authorize the administrative law judge to additionally consider mitigating factors and aggravating factors, as specified.

Existing law authorizes a state agency that investigates a complaint against a contractor for violation of the above-described provisions to limit its investigation to evaluating the information provided by the person or entity submitting the complaint and information provided by the contractor.

This bill would authorize the state agency to limit its investigation to credible information. The bill would require the contracting officer, upon receipt of credible information regarding a violation of specified provisions, to promptly notify the state agency with oversight, the agency debarring and suspending official, and law enforcement officials with jurisdiction over the alleged offense, as specified. The bill would authorize the contracting officer to direct the contractor to take specific steps to abate the alleged violation or enforcement of the requirements of its compliance plan.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 6108 of the Public Contract Code is amended to read:

**6108.** (a) (1) (A) Every contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, shall require that a contractor certify ~~that~~ *to both of the following:*

*(i) That no apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor. The contractor shall agree to comply with this provision of the contract.*

*(ii) The contract complies with the requirements in subparagraph (B).*

*(B) Contractors, contractor employees, subcontractors, subcontractor employees, and their agents are prohibited from all of the following:*

*(i) Engaging in severe forms of trafficking in persons during the performance period of the contract.*

*(ii) Using forced labor in the performance of the contract.*

*(iii) Destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents, including passports or driver's licenses, regardless of the issuing authority.*

*(iv) Using misleading or fraudulent practices during the recruitment of employees or offering of employment, including failing to disclose, in a format and language understood by the employee or potential employee, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including all of the following:*

*(I) Wages and fringe benefits.*

*(II) The location of work.*

*(III) The living conditions, housing, and associated costs, if provided or arranged by the employer or agent.*

*(IV) Any significant costs to be charged to the employee or potential employee.*

*(V) The hazardous nature of the work, if applicable.*

*(v) Using recruiters that do not comply with state labor laws and the laws of the country that the recruiting takes place.*

*(vi) Charging employees or potential employees recruitment fees.*

*(vii) (I) Failing to provide or pay for the cost of return transportation upon the end of employment, for either of the following:*

*(ia) An employee who is not a national of the country where the work is taking place and who was brought into that country for the purpose of working on a state contract or subcontract.*

*(ib) An employee who is not a United States national and who was brought into the United States for the purpose of working on a state contract or subcontract, if the payment of the cost is required under existing temporary worker programs or pursuant to a written agreement with the employee.*

*(II) The requirements of subclause (I) do not apply to an employee who meets one of the following criteria:*

*(ia) The employee is legally permitted to remain in the country where the work is performed and chooses to remain in the country where the work is performed.*

*(ib) The employee is exempted by an authorized official of the contracting agency, designated by a chief official of a state agency in accordance with agency procedures.*

*(III) For a victim of trafficking in persons who is seeking victim services or legal redress in the country or for a witness in an enforcement action related to trafficking in persons in which the work is performed, or a portion of the work is performed, the contractor shall provide or pay the cost of return transportation as specified in subclause (I) in a way that does not obstruct the victim services, legal redress, or witness activity, including offering return transportation to a witness at a time that supports the witness's need to testify.*

*(viii) Providing or arranging housing that fails to meet the country where the work is performed housing and safety standards.*

*(ix) If required by law or contract, failing to provide an employment contract, recruitment agreement, or other required work document in writing.*

*(I) The written document shall be in a language the employee understands.*

*(II) If the employee must relocate to perform the work, the written document shall be provided to the employee at least five days prior to the employee relocating.*

*(III) The written document shall include, but is not limited to, a work description, wages, the prohibition on charging recruitment fees as specified in clause (vi), the work location, the living accommodations and associated costs, the amount of time off, the round-trip transportation arrangements, a grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.*

*(IV) The contracting officer shall consider the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons, and the number of non-United States citizens expected to be employed, when deciding whether to require work documents in the contract.*

*(C) Contractors and subcontractors are required to notify employees of the prohibited activities described in subparagraph (B) and the actions that may be taken against them for violations.*

*(D) The contractor is ineligible for, and shall not bid on, or submit a proposal for, a contract under this section if that contractor has failed to certify compliance with subparagraph (A).*

*(E) The contractor shall also exercise due diligence in ensuring that its subcontractors comply with subparagraph (A), including requiring each subcontractor to sign a certification.*

*(2) Before a contract is awarded, a proposed contractor shall provide a certification to the contracting officer that states both of the following:*

*(A) The contractor has implemented a compliance plan that includes both of the following:*

*(i) Procedures to prevent any prohibited activities described in subparagraph (B) of paragraph (1).*

*(ii) Procedures to monitor, detect, and terminate a contract with a subcontractor or agent engaging in any prohibited activities described in subparagraph (B) of paragraph (1).*

*(B) The contractor has conducted due diligence and one of the following applies:*

*(i) To the best of the contractor's knowledge and belief, the contractor, its agents, proposed subcontractors, or their agents, have not engaged in any prohibited activities described in subparagraph (B) of paragraph (1).*

*(ii) If the contractor is aware of abuses relating to the prohibited activities described in subparagraph (B) of paragraph (1), the contractor or proposed subcontractors have taken the appropriate remedial and referral actions.*

*(3) Before a subcontract is awarded, the contractor shall obtain a certification from the proposed subcontractor that states both of the following:*

*(A) The subcontractor has implemented a compliance plan that includes both of the following:*

*(i) Procedures to prevent any prohibited activities described in subparagraph (B) of paragraph (1).*

*(ii) Procedures to monitor, detect, and terminate a contract with a subcontractor or agent engaging in any prohibited activities described in subparagraph (B) of paragraph (1).*

*(B) The subcontractor has conducted due diligence and one of the following applies:*

*(i) To the best of the subcontractor's knowledge and belief, the subcontractor, its agents, proposed subcontractors, or their agents, have not engaged in any prohibited activities described in subparagraph (B) of paragraph (1).*

*(ii) If the subcontractor is aware of abuses relating to the prohibited activities described in subparagraph (B) of paragraph (1), the subcontractor or proposed subcontractors have taken the appropriate remedial and referral actions.*

*(4) A compliance plan must comply with all of the following criteria:*

*(A) The compliance plan shall be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.*

*(B) The compliance plan shall include, at minimum, all of the following:*

*(i) An awareness program to inform employees about the prohibited activities described in subparagraph (B) of paragraph (1), and the actions that will be taken against the employee for violations.*

*(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and email address at help@befree.org.*

*(iii) A recruitment and wage plan that does all of the following:*

*(I) Only permits the use of recruitment companies with trained employees.*

*(II) Prohibits charging recruitment fees to the employee or potential employee.*

*(III) Ensures that wages meet the legal requirements or explains any variance of the applicable country where the work is performed.*

*(iv) If the contractor or subcontractor intends to provide or arrange housing, a housing plan that ensures that the housing meets the housing and safety standards of the country where the work is performed.*

*(v) Procedures to prevent subcontractors and agents at any tier and at any dollar value from engaging in trafficking in persons, including the prohibited activities described in subparagraph (B) of paragraph (1) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in the prohibited activities.*

*(5) A contractor and subcontractor shall comply with all of the following requirements:*

*(A) Disclose to the contracting officer and the state agency with oversight information sufficient to identify the nature and extent of a violation of a prohibited activity described in subparagraph (B) of paragraph (1) and the individuals responsible for the conduct.*

*(B) Provide timely and complete responses to state auditors' and investigators' requests for documents.*

*(C) Cooperate fully in providing reasonable access to their facilities and staff, inside and outside the state, to allow contracting agencies and other responsible government agencies to conduct audits, investigations, or other actions to ascertain compliance with this section, or any other applicable law or regulation establishing restrictions on trafficking in persons or the use of forced labor.*

*(D) Protect all employees suspected of being victims of or witnesses to prohibited activities before returning to the country from which the employee was recruited.*

*(E) Not prevent or hinder an employee from cooperating fully with government authorities.*

*(6) The contracts shall provide suitable remedies, including termination, to be imposed on contractors and subcontractors that fail to comply with the requirements of this section.*

~~(2)~~

*(7) The contract shall specify that the contractor is required to cooperate fully in providing reasonable access to the contractor's records, documents, agents, employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice determine the contractor's compliance with the requirements under ~~paragraph (1)~~: this section.*

*(b) (1) Any contractor contracting with the state who knew or should have known that the apparel, garments, corresponding accessories, equipment, materials, or supplies furnished to the state were laundered or produced*

in violation of the conditions specified in subdivision (a) when entering into a contract pursuant to subdivision (a), may, subject to subdivision (c), have any or all of the following sanctions imposed:

(A) The contract under which the prohibited apparel, garments, or corresponding accessories, equipment, materials, or supplies were laundered or provided may be voided at the option of the state agency to which the equipment, materials, or supplies were provided.

(B) The contractor may be assessed a penalty that shall be the greater of one thousand dollars (\$1,000) or an amount equaling 20 percent of the value of the apparel, garments, corresponding accessories, equipment, materials, or supplies that the state agency demonstrates were produced in violation of the conditions specified in paragraph (1) of subdivision (a) and that were supplied to the state agency under the contract.

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

*(D) The contractor may be required to remove a contractor employee from the performance of the contract.*

*(E) The contractor may be required to terminate a subcontractor.*

*(F) Contract payments may be suspended until the contractor has taken appropriate remedial action.*

*(G) If the state determines contractor noncompliance, there may be a loss of award fee, consistent with the award fee plan, for the performance period the state determined contractor noncompliance.*

*(H) The state may decline to exercise available options under the contract.*

*(I) The contractor may be subject to suspension or debarment.*

*(2) If a contractor, contractor employee, subcontractor, subcontractor employee, or agent violates subdivision (a) of Section 236.1 of the Penal Code, the federal Trafficking Victims Protection Act of 2000 (Division A, Public Law 106-386), as amended, federal Executive Order No. 13627 (September 25, 2012), or this section the contractor shall do all of the following:*

*(A) Notify its employees and agents of both of the following:*

*(i) The prohibited activities described in subparagraph (B) of paragraph (1) of subdivision (a).*

*(ii) The actions that will be taken against the contractor employee, subcontractor, subcontractor employee, or agent for violations of this section, including, but not limited to, removal from the contract, reduction in benefits, or termination of employment.*

*(B) Take appropriate action, including termination against a contractor employee, subcontractor, subcontractor employee, or agent that violates the policy in subparagraph (B) of paragraph (1) of subdivision (a).*

*(C) Inform the contracting officer and the state agency with oversight immediately of both of the following:*

*(i) Any credible information it receives from any source, including the law enforcement of the country where the work is performed, that alleges a contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in subparagraph (B) of paragraph (1) of subdivision (a).*

*(ii) Any actions taken against a contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this paragraph.*

*(D) If the allegation may be associated with more than one state contract, inform the contracting officer for the contract with the highest dollar value.*

*(E) Disclose to the state agency with oversight information sufficient to identify the nature and extent of a violation of a prohibited activity described in subparagraph (B) of paragraph (1) of subdivision (a) and the individuals responsible for the conduct.*

*(F) Provide timely and complete responses to state auditors' and investigators' requests for documents.*

*(G) (i) Cooperate fully in providing reasonable access to its facilities and staff, inside and outside the state, to allow contracting agencies and other responsible government agencies to conduct audits, investigations,*

*or other actions to ascertain compliance with this section, or any other applicable law or regulation establishing restrictions on trafficking in persons or the use of forced labor.*

*(ii) The requirement in clause (i) does not foreclose any contractor rights arising in law or the terms of the contract. The requirement does not do any of the following:*

*(I) Require the contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine.*

*(II) Require any officer, director, owner, employee, or agent of the contractor, including a sole proprietor, to waive their attorney-client privilege or Fifth Amendment to the Constitution rights.*

*(III) Restrict the contractor from conducting an internal investigation or defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.*

*(H) Protect all employees suspected of being victims of or witnesses to prohibited activities from retaliation from employers, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with state authorities.*

*(I) Post the minimum requirements of the compliance plan as stated in subparagraph (B) of paragraph (1) of subdivision (a), no later than the initiation of contract performance, at the workplace, unless the work is to be performed in the field or not in a fixed location, and on the contractor's internet website, if applicable. If posting at the workplace or on the internet website is impracticable, the contractor shall provide the minimum requirements of the compliance plan as stated in subparagraph (B) of paragraph (1) of subdivision (a) to each worker in writing.*

*(J) Within 60 days of receiving the contract, provide the compliance plan to the contracting officer.*

~~(2)~~

*(3) Any moneys collected pursuant to this subdivision shall be deposited into the General Fund.*

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

*(2) The administrative law judge may consider both of the following factors:*

*(A) Mitigating factors, including all of the following:*

*(i) The contractor had a compliance plan at the time of the violation.*

*(ii) The contractor was in compliance with the compliance plan at the time of the violation.*

*(iii) The contractor has taken appropriate remedial actions for the violations, including reparation to victims for the violations.*

*(B) Aggravating factors, including the contractor failed to abate an alleged violation or failed to enforce the requirements of a compliance plan when directed to do so.*

~~(2)~~

*(3) The agency shall be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.*

(d) (1) (A) *Upon receipt of credible information regarding a violation listed in paragraph (2) of subdivision (b), the contracting officer shall promptly notify, in accordance with agency procedures, the state agency with oversight, the agency debarring and suspending official, and if appropriate, law enforcement officials with jurisdiction over the alleged offense.*

*(B) Upon receipt of credible information regarding a violation listed in paragraph (2) of subdivision (b), the contracting officer may direct the contractor to take specific steps to abate the alleged violation or enforce the requirements of its compliance plan.*

~~(d)(1)~~

(2) Any state agency that investigates a complaint against a contractor for violation of this section may limit its investigation to evaluating the *credible* information provided by the person or entity submitting the complaint and the *credible* information provided by the contractor.

~~(2)~~

(3) Whenever a contracting officer of the contracting agency has reason to believe that the contractor failed to comply with ~~paragraph (1) of~~ subdivision (a), the agency shall refer the matter for investigation to the head of the agency and, as the head of the agency determines appropriate, to either the Director of Industrial Relations or the Department of Justice.

(e) ~~(1) For purposes of this section, "forced labor" shall have the same meaning as in Section 1307 of Title 19 of the United States Code. the following terms have the following meanings:~~

~~(2)~~

(1) "Abusive forms of child labor" means any of the following:

(A) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.

(B) The use, procuring, or offering of a child for prostitution, for the production of pornography, or for pornographic performances.

(C) The use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of illicit drugs.

(D) All work or service exacted from or performed by any person under the age of 18 years either under the menace of any penalty for its nonperformance and for which the worker does not offer oneself voluntarily, or under a contract, the enforcement of which can be accomplished by process or penalties.

(E) All work or service exacted from or performed by a child in violation of all applicable laws of the country of manufacture governing the minimum age of employment, compulsory education, and occupational health and safety.

(2) "Agent" means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

(3) "Apparel, garments, or corresponding accessories" includes, but is not limited to, uniforms.

(4) "Coercion" means any of the following:

(A) Threats of serious harm to or physical restraint against any person.

(B) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person.

(C) The abuse or threatened abuse of the legal process.

(5) "Contractor employee" means an employee of the contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

(6) "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of their personal services or of those of a person under their control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(7) "Employee" means a contractor employee or subcontractor employee.

~~(3)~~

(8) "Exploitation of children in sweatshop labor" means all work or service exacted from or performed by any person under the age of 18 years in violation of more than one law of the country of manufacture governing



wage and benefits, occupational health and safety, nondiscrimination, and freedom of association.

(9) "Forced labor" means knowingly providing or obtaining the labor or services of a person by any of the following:

- (A) By threats of serious harm to, or physical restraint against, that person or another person.
- (B) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform labor or services, that person or another person would suffer serious harm or physical restraint.
- (C) By means of the abuse or threatened abuse of law or the legal process.

(10) "Involuntary servitude" includes a condition of servitude induced by means of either of the following:

- (A) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in those conditions, that person or another person would suffer serious harm or physical restraint.
- (B) The abuse or threatened abuse of the legal process.

(11) "Recruitment fees" means fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee. Recruitment fees include, but are not limited to, fees for any of the following, when they are associated with the recruiting process:

- (A) Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending, or placing employees or potential employees.
- (B) Advertising.
- (C) Obtaining permanent or temporary labor certification, including any associated fees.
- (D) Processing applications and petitions.
- (E) Acquiring visas, including any associated fees.
- (F) Acquiring photographs and identity or immigration documents, such as passports, including any associated fees.
- (G) Accessing the job opportunity, including required medical examinations and immunizations, background, reference, and security clearance checks and examinations, and additional certifications.
- (H) An employer's recruiters, agents, or attorneys, or other notary or legal fees.
- (I) Language interpretation or translation, arranging for or accompanying on travel, or providing other advice to employees or potential employees.
- (J) Government-mandated fees, including border crossing fees, levies, or worker welfare funds.
- (K) Transportation and subsistence costs, including both of the following:
  - (i) While in transit, including, but not limited to, airfare or costs of other modes of transportation, terminal fees, and travel taxes associated with travel from the country of origin to the country of performance and the return journey upon the end of employment.
  - (ii) From the airport or disembarkation point to the worksite.
- (L) Security deposits, bonds, and insurance.
- (M) Equipment charges.

(12) "Severe forms of trafficking in persons" means either of the following:

- (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform that act has not attained 18 years of age.
- (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage,

*debt bondage, or slavery.*

(13) "State agency" means any state agency in this state.

(14) "Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

(15) "Subcontractor" means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

(16) "Subcontractor employee" means an employee of the subcontractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

~~(4)~~

(17) "Sweatshop labor" means all work or service exacted from or performed by any person in violation of more than one law of the country of manufacture governing wages, employee benefits, occupational health, occupational safety, nondiscrimination, or freedom of association.

~~(5) "Apparel, garments, or corresponding accessories" includes, but is not limited to, uniforms.~~

~~(6)~~

(18) Notwithstanding any other provision of this section, "forced labor" and "convict labor" do not include work or services *permissible under state law* performed by an inmate or a person employed by the Prison Industry Authority.

~~"Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of their personal services or of those of a person under their control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.~~

(f) (1) On or before February 1, 2004, the Department of Industrial Relations shall establish a contractor responsibility program, including a Sweatfree Code of Conduct, to be signed by all bidders on state contracts and subcontracts. Any state agency responsible for procurement shall ensure that the Sweatfree Code of Conduct is available for public review at least 30 calendar days between the dates of receipt and the final award of the contract. The Sweatfree Code of Conduct shall list the requirements that contractors are required to meet, as set forth in subdivision (g).

(2) Upon implementation in the manner described in paragraph (4), every contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or for the procurement of equipment or supplies, shall require that the contractor certify in accordance with the Sweatfree Code of Conduct that no apparel, garments, or corresponding accessories, or equipment, materials, or supplies, furnished to the state pursuant to the contract have been laundered or produced, in whole or in part, by sweatshop labor.

(3) The appropriate procurement agency, in consultation with the Director of Industrial Relations, shall employ a phased and targeted approach to implementing the Sweatfree Code of Conduct. Sweatfree Code of Conduct procurement policies involving apparel, garments, and corresponding accessories may be permitted a ~~phase in~~ *phase-in* period of up to one year for purposes of feasibility and providing sufficient notice to contractors and the general public. The appropriate procurement agency, in consultation with the Director of Industrial Relations, shall target other procurement categories based on the magnitude of verified sweatshop conditions and the feasibility of implementation, and may set ~~phase in~~ *phase-in* goals and timetables of up to three years to achieve compliance with the principles of the Sweatfree Code of Conduct.

(4) In order to facilitate compliance with the Sweatfree Code of Conduct, the Department of Industrial Relations shall explore mechanisms employed by other governmental entities, including, but not limited to, New Jersey Executive Order *No.* 20, of 2002, to ensure that businesses that contract with this state are in compliance with this section and any regulations or requirements promulgated in conformance with this section, as amended by Section 2 of Chapter 711 of the Statutes of 2003. The mechanisms explored may include, but not be limited to, authorization to contract with a competent nonprofit organization that is neither funded nor controlled, in whole or in part, by a corporation that is engaged in the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies. The Department of Industrial Relations, in complying with this paragraph, shall also consider any feasible and cost-effective monitoring measures that will encourage compliance with the Sweatfree Code of Conduct.

(5) To ensure public access and confidence, the Department of Industrial Relations shall ensure public awareness and access to proposed contracts by postings on the ~~Internet~~ *internet* and through communication to advocates for garment workers, unions, and other interested parties. The appropriate agencies shall establish a mechanism for soliciting and reviewing any information indicating violations of the Sweatfree Code of Conduct by prospective or current bidders, contractors, or subcontractors. The agencies shall make their findings public when they reject allegations against bidding or contracting parties.

(6) Contractors shall ensure that their subcontractors comply in writing with the Sweatfree Code of Conduct, under penalty of perjury. Contractors shall attach a copy of the Sweatfree Code of Conduct to the certification required by subdivision (a).

(g) No state agency may enter into a contract with any contractor unless the contractor meets the following requirements:

(1) Contractors and subcontractors in California shall comply with all appropriate state laws concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards as well as appropriate federal laws. Contractors based in other states in the United States shall comply with all appropriate laws of their states and appropriate federal laws. For contractors whose locations for manufacture or assembly are outside the United States, those contractors shall ensure that their subcontractors comply with the appropriate laws of countries where the facilities are located.

(2) Contractors and subcontractors shall maintain a policy of not terminating any employee except for just cause, and employees shall have access to a mediator or to a mediation process to resolve certain workplace disputes that are not regulated by the National Labor Relations Board.

(3) Contractors and subcontractors shall ensure that workers are paid, at a minimum, wages and benefits in compliance with applicable local, state, and national laws of the jurisdiction in which the labor, on behalf of the contractor or subcontractor, is performed. Whenever a state agency expends funds for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, the applicable labor standards established by the local jurisdiction through the exercise of either local police powers or local spending powers in which the labor, in compliance with the contract or purchase order for which the expenditure is made, is performed shall apply with regard to the contract or purchase order for which the expenditure is made, unless the applicable local standards are in conflict with, or are explicitly preempted by, state law. A state agency may not require, as a condition for the receipt of state funds or assistance, that a local jurisdiction refrain from applying the labor standards that are otherwise applicable to that local jurisdiction. The Department of Industrial Relations may, without incurring additional expenses, access information from any nonprofit organization, including, but not limited to, the World Bank, that gathers and disseminates data with respect to wages paid throughout the world, to allow the Department of Industrial Relations to determine whether contractors and subcontractors are compensating their employees at a level that enables those employees to live above the applicable poverty level.

(4) All contractors and subcontractors shall comply with the overtime laws and regulations of the country in which their employees are working.

(5) All overtime hours shall be worked voluntarily. Workers shall be compensated for overtime at either (A) the rate of compensation for regular hours of work, or (B) as legally required in the country of manufacture, whichever is greater.

(6) No person may be employed who is younger than the legal age for children to work in the country in which the facility is located. In no case may children under the age of 15 years be employed in the manufacturing process. Where the age for completing compulsory education is higher than the standard for the minimum age of employment, the age for completing education shall apply to this section.

(7) There may be no form of forced labor of any kind, including slave labor, prison labor, indentured labor, or bonded labor, including forced overtime hours.

(8) The work environment shall be safe and healthy and, at a minimum, be in compliance with relevant local, state, and national laws. If residential facilities are provided to workers, those facilities shall be safe and healthy as well.

(9) There may be no discrimination in hiring, salary, benefits, performance evaluation, discipline, promotion, retirement, or dismissal on the basis of age, sex, pregnancy, maternity leave status, marital status, race,

nationality, country of origin, ethnic origin, disability, sexual orientation, gender identity, religion, or political opinion.

(10) No worker may be subjected to any physical, sexual, psychological, or verbal harassment or abuse, including corporal punishment, under any circumstances, including, but not limited to, retaliation for exercising ~~his or her~~ *their* right to free speech and assembly.

(11) No worker may be forced to use contraceptives or take pregnancy tests. No worker may be exposed to chemicals, including glues and solvents, that endanger reproductive health.

(12) Contractors and bidders shall list the names and addresses of each subcontractor to be utilized in the performance of the contract, and list each manufacturing or other facility or operation of the contractor or subcontractor for performance of the contract. The list, which shall be maintained and updated to show any changes in subcontractors during the term of the contract, shall provide company names, owners or officers, addresses, telephone numbers, ~~e-mail~~ *email* addresses, and the nature of the business association.

(h) Any person who certifies as true any material matter pursuant to this section that ~~he or she knows~~ *they know* to be false is guilty of a misdemeanor.

(i) The provisions of this section, as amended by Section 2 of Chapter 711 of the Statutes of 2003, shall be in addition to any other provisions that authorize the prosecution and enforcement of local labor laws and may not be interpreted to prohibit a local prosecutor from bringing a criminal or civil action against an individual or business that violates the provisions of this section.

(j) (1) The certification requirements set forth in subdivisions (a) and (f) do not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less.

(2) The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

*(3) The requirements set forth in this section govern contracts and subcontracts entered into by a state agency, regardless of the place of performance.*

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.