

470--A

Cal. No. 29

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. JOHN, NOLAN, COLTON, SCHROEDER -- read once and referred to the Committee on Labor -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the state finance law, in relation to contracts entered into by a state agency for the procurement of equipment, materials or supplies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The state finance law is amended by adding a new section  
2     148 to read as follows:  
3     S 148. PROHIBITION AGAINST FORCED LABOR. 1. EVERY CONTRACT ENTERED  
4     INTO BY ANY STATE AGENCY FOR THE PROCUREMENT OF EQUIPMENT, MATERIALS, OR  
5     SUPPLIES SHALL CONTAIN A STATEMENT IN WHICH THE CONTRACTOR ATTESTS THAT  
6     NO FOREIGN-MADE EQUIPMENT, MATERIALS, OR SUPPLIES FURNISHED TO THE STATE  
7     PURSUANT TO THE CONTRACT HAVE BEEN PRODUCED IN WHOLE OR IN PART BY  
8     FORCED LABOR, CONVICT LABOR, OR INDENTURED LABOR UNDER PENAL SANCTION.  
9     2. ANY CONTRACTOR CONTRACTING WITH THE STATE WHO FURNISHES  
10    FOREIGN-MADE EQUIPMENT, MATERIALS, OR SUPPLIES PRODUCED IN WHOLE OR IN  
11    PART BY FORCED LABOR, CONVICT LABOR, OR INDENTURED LABOR UNDER PENAL  
12    SANCTION, AFTER PROVIDING A STATEMENT PURSUANT TO SUBDIVISION ONE OF  
13    THIS SECTION, SHALL HAVE THE CONTRACT VOIDED, SHALL BE ASSESSED A PENAL-  
14    TY OF ONE THOUSAND DOLLARS OR AN AMOUNT EQUALING TWENTY PERCENT OF THE  
15    VALUE OF THE EQUIPMENT, MATERIALS, OR SUPPLIES, WHICHEVER IS GREATER,  
16    AND SHALL BE PROHIBITED FROM BIDDING FOR A PERIOD NOT TO EXCEED THREE  
17    HUNDRED SIXTY DAYS.  
18    3. WHEN IMPOSING THE SANCTIONS DESCRIBED IN SUBDIVISION TWO OF THIS  
19    SECTION, THE CONTRACTING AGENCY SHALL PROVIDE FOR A FAIR HEARING AND  
20    NOTICE. THE AGENCY SHALL TAKE INTO CONSIDERATION ANY MEASURES THE  
21    CONTRACTOR HAS TAKEN TO ENSURE COMPLIANCE WITH THIS SECTION, AND MAY

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 WAIVE ANY OR ALL OF THE SANCTIONS IF IT DETERMINES THAT THE CONTRACTOR  
2 HAS ACTED IN GOOD FAITH.

3 4. FOR PURPOSES OF THIS SECTION, THE TERM "FORCED LABOR" SHALL HAVE  
4 THE SAME MEANING AS IN SECTION 1307 OF TITLE 19 OF THE UNITED STATES  
5 CODE.

6 S 2. This act shall take effect on the sixtieth day after it shall  
7 have become a law.