

*** UPDATE ***

August 5, 2013

TO: Members, Assembly Committee on Judiciary

FROM: California Chamber of Commerce
Alliance for International Education and Cultural Exchange
American Council of Engineering Companies – California
American Institute of Architects, California Council
AMN Healthcare
ASSE International Student Exchange Program
Bay Area Council
California Attractions and Parks Association
California Healthcare Institute
California Hotel and Lodging Association
California Hospital Association
California Manufacturers and Technology Association
California Restaurant Association
California Ski Industry Association
California Travel Association
Communicating for America
Family Winemakers of California
Intrax Cultural Exchange
Los Angeles Chamber of Commerce
Motion Picture Association of America
National Federation of Independent Business
TechAmerica
TechNet
The Chemical Industry Council of California
Valley Industry and Commerce Association

**SUBJECT: SB 516 (STEINBERG) FOREIGN LABOR CONTRACTORS: REGISTRATION
SET FOR HEARING – AUGUST 13, 2013
OPPOSE UNLESS AMENDED – AS AMENDED MAY 7, 2013**

We, the above named organizations, **OPPOSE UNLESS AMENDED SB 516 (Steinberg)** as amended May 7, 2013, because it approaches the real problem of human trafficking in an overly broad manner which will harm legitimate employers by imposing significant burdens on and risks to employers who hire workers from foreign countries.

In an effort to demonstrate our support for the efforts to assist in identifying and eliminating human trafficking as described by the author, we have submitted to the author a mockup of **SB 516** amended which would allow us to remove our opposition.

While we understand the author's desire to address the real problems of human trafficking, this bill goes much too far and creates unnecessary state oversight over legitimate business operations that are necessary for California businesses to assist foreign workers in coming to this state. We have met numerous times with the author's staff and engaged in conversations with the sponsors in order to explain the unique circumstances of many of the businesses reflected in the opposition on this letter. Our amended version of the bill reflects a comprehensive solution that meets the objectives as expressed in the bill without unduly impacting California's ability to compete in a global marketplace in obtaining the best and the brightest, as well as creating safeguards for foreign workers seeking employment in California.

Human trafficking is a crime and punishable as such under any number of existing provisions of law. **SB 516** compounds penalties on top of remedies already available to charge violators. The bill goes even

further to allow administrative, or paperwork violations to be treated as egregious as a material violation of the new requirements, and without a showing of harm.

According to **SB 516**, any person or company that assists in securing or actually secures or provides employment to foreign workers for compensation is a foreign labor contractor (FLC), and as such, any employer who hires a foreign worker would be subject to the requirements of the bill. Accordingly, this sweeping definition appears to include employers of all foreign workers who enter the U. S. legitimately through different types of visas. These workers are often assisted by a variety of entities, or recruited by the employer, all of which under this bill will be designated as foreign labor contractors. Examples of included foreign employees:

- Engineers, doctors, nurses, medical specialists, and researchers.
- International college students that come out in groups to perform seasonal work in theme parks and resorts.
- Hospitality workers for hotels and restaurants.
- Actors and other professionals for movie and television production.

The most alarming requirements in the bill include, but are not limited to:

- All FLCs must register with the Labor Commissioner and post a surety bond. The registration includes detailed information, any of which is incomplete or inaccurate could be viewed as a violation and the FLC could be subject to penalties and a lawsuit. The employer would be jointly liable.
- The employer must disclose to the Labor Commissioner the use of, or planned use of a FLC, and post a surety bond. Not using a registered FLC subjects the employer to penalties.
- Any violation is equally punishable, without any showing of harm by the FLC. The employer is jointly liable. Furthermore, no actual harm must be shown to bring a private right of action; anyone who believes there is a violation can file a lawsuit.

We oppose this bill for several reasons:

- Without regard to employer or industry history of human trafficking, all employers would face equally stringent registration, regulation, bond requirements, and significant liability.
- Immigration reform is currently being debated in congress. Both the House of Representatives and the Senate are taking up bills to address various aspects of immigration, including foreign labor contractors in the Senate. The conversation in California is premature given the rapid pace with which reform is moving in Congress.
- **SB 516** creates duplicative, overlapping and more onerous requirements than the language in the U.S. Senate bill (S. 744). California should wait until federal immigration reform has been accomplished in order to avoid conflicts with federal requirements. Should Congress and California pass conflicting or duplicative FLC registration and regulation, California employers who hire foreign workers will be at a competitive disadvantage to businesses in other states because they will face higher litigation risks, and higher burdens.
- Immigration reform is expected to ease the labor needs of California employers in both high and low skilled jobs. **SB 516** could undermine the benefits of national reform for California.

In addition, at the July meeting of the National Conference of Commissioners on Uniform State Laws, that body voted to adopt a model "Uniform Act on Prevention of and Remedies for Human Trafficking". The Commissioners are now instructed to attempt to secure passage of this legislation in all states so that there will be a uniform approach to this problem. We would urge that the author, sponsors and this committee look seriously at this proposal as an alternative to **SB 516**.

We support the goal of the bill to prevent and penalize human traffickers; however this bill goes too far, is premature in light of federal action and will disadvantage California in finding and retaining the best possible employees.

For these reasons and others, the above listed organizations **OPPOSE UNLESS AMENDED SB 516 (Steinberg).**

cc: The Honorable Darrell Steinberg
David Lanier, Office of the Governor
Drew Liebert, Assembly Committee on Judiciary
Mark Redmond, Assembly Republican Caucus
Mufaddal Ezzy, Office of Senator Steinberg
Christine Baker, Department of Industrial Relations
District Offices, Members, Assembly Committee on Judiciary

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