**Unambiguous Legislative Intent and Executive Approval of SB 477 Envision Inclusion of all Visa Categories Within its Scope**

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 foreign labor contractors (FLCs) regardless of the visa category an FLC uses to recruit non-immigrant workers with two limited exceptions.[[1]](#footnote-1)

**Author of SB 477, Sen. Steinberg:**

"[T]he legislative intent of SB 477 was to cover all temporary foreign workers coming to California through the foreign labor recruitment process on a wide range of visa categories including H2A workers. The bill was never intended to be limited to coverage of just H2B workers.

"[T]he legislation was intended to establish ***uniform rules*** regulating the conduct of all FLCs to combat human trafficking: Moreover, in a broader context, subjecting all employers who employ foreign workers to a ***common standard*** will level the competitive playing field for all—particularly the many businesses who do treat workers fairly."

**Testimony of Original supporters**

When CAST drafted and testified before the \_\_\_\_\_\_\_\_on SB 477, it was with the understanding that it would protect the estimated 130,000 temporary workers coming to California and working in a broad spectrum of occupations under all visa categories.

There was absolutely no discussion that the law would be limited solely to the H-2B visa class. Had that been the case, there would have been no need to compromise with the J-1 or talent agency lobbyists or have any conversations with other business groups who argued for their exclusion from coverage.

**Governor Brown's approval:**

SB 477 as sent to the Governor and signed into law was intended to protect the approximately 130,000 workers coming to California on temporary visas.

Governor Brown vetoed SB 477's predecessor on the grounds that the $500 registration fee was insufficient to cover the costs of the program. The fiscal analysis underlying SB477 that resulted in the Governor's signing the bill into law was explicitly based on estimates including workers admitted under the following visa categories: H-1B -153,759 positions in California; H-2A - 3147 position requests; and H-2B - 2188 positions.

**Legislative History**

The legislative history conclusively demonstrates that the Legislature intended SB477 to subject “all employers who employ foreign workers to a common standard.”

**Senate Judiciary Committee**

Noted the need for a comprehensive and uniform system of regulation for all FLCs in light of: A recent study finding that “regardless of visa category, employment sector, race, gender or national origin, internationally recruited workers face disturbingly common patterns of recruitment abuse, including fraud, discrimination, severe economic coercion, retaliation, blacklisting and, in some cases, forced labor, indentured servitude, debt bondage and human trafficking.” This report concluded that “disparate rules and requirements for workers, employers and recruiters, as well as lax enforcement of the regulations that do exist, allow and even incentivize recruiters and employers to engage in abuses.

**Need for legislative fix to realize legislative intent**

In the absence of a clarifying legislative fix, the Division of Labor Standards Enforcement of the Dep't of Labor limited the reach of the regulations implementing SB 477 solely to FLCs recruiting workers pursuant to H-2B visas.

Limiting SB 477's coverage to FLC's recruiting under the H-2B category would limit its coverage to only 2.3% of recruited workers, less than 3000 individuals.

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.

**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.

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1. Sen.Steinberg: "In 2013, my staff and I were part of numerous conversations with the business interests that vigorously opposed the bill. As a result of these negotiations, there were two narrow exceptions to the visa categories;" talent agencies, who are subject to more comprehensive regulation than that included in the SB 477 scheme, and FLCs recruiting students under the J-1 visa program..." [↑](#footnote-ref-1)