

26 certain proceedings; authorizing a company placed on
 27 such list to petition for removal; providing
 28 requirements for such petitions; authorizing the
 29 removal of a company from such list in certain
 30 circumstances; providing construction; requiring the
 31 deposit of collected fines into the General Revenue
 32 Fund; providing an effective date.
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34 Be It Enacted by the Legislature of the State of Florida:
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36 Section 1. Section 287.1346, Florida Statutes, is created
 37 to read:

38 287.1346 Provision of commodities produced by forced
 39 labor; denial or revocation of the right to transact business
 40 with agencies.-

41 (1) As used in this section, the term:

42 (a) "Forced labor" means work or service exacted from any
 43 person, including a minor, under the menace of a penalty for
 44 nonperformance and for which the worker does not offer himself
 45 or herself voluntarily or an activity that violates s. 787.06.

46 (b) "Forced labor vendor list" or "list" means the list
 47 required to be created and maintained by the department pursuant
 48 to paragraph (4)(d).

49 (c) "Senior management" includes chief executive officers;
 50 assistant chief executive officers, including, but not limited

51 to, assistant presidents, vice presidents, or assistant
52 treasurers; chief financial officers; chief personnel officers;
53 or any employee of an entity performing similar functions.

54 (2) A company on the forced labor vendor list may not:

55 (a) Submit a bid, proposal, or reply on a contract to
56 provide any commodities to an agency.

57 (b) Be awarded a contract or perform work as a contractor,
58 supplier, subcontractor, or consultant with an agency for the
59 provision of commodities.

60 (c) Transact business for the provision of commodities
61 with any agency.

62 (3) An agency may not accept a bid, proposal, or reply
63 from, award a contract to, or transact business pertaining to
64 the provision of commodities with a company on the forced labor
65 vendor list, or an entity under the control of such company, for
66 a period of 365 days after the date the company was placed on
67 the list unless the company is removed from the list pursuant to
68 paragraph (5) (d).

69 (4) (a) 1. All invitations to bid, requests for proposals,
70 and invitations to negotiate and any written contract for the
71 provision of commodities by an agency must include a statement
72 informing companies of the requirements of this section.

73 2. Any contract with an agency for the provision of
74 commodities entered into or renewed on or after July 1, 2024,
75 must include a provision that allows for the termination of such

76 contract at the option of the awarding agency if the company is
 77 placed on the forced labor vendor list.

78 (b) At the time a company submits a bid, proposal, or
 79 reply for a contract and before the company enters into or
 80 renews a contract with an agency for the provision of
 81 commodities, a member of the company's senior management must
 82 certify, in writing, that to the best of his or her knowledge
 83 the commodities such company is offering to the agency have not
 84 been produced, in whole or in part, by forced labor.

85 (c) A company must notify the department within 30 days
 86 after gaining actual knowledge that the company has provided to
 87 an agency a commodity produced, in whole or in part, by forced
 88 labor. Any agency that receives information that a company has
 89 provided to an agency a commodity produced, in whole or in part,
 90 by forced labor must provide that information to the department
 91 in writing within 10 days.

92 (d) The department shall create and maintain a forced
 93 labor vendor list that contains the name and address of each
 94 company that has been disqualified from the public contracting
 95 and purchasing process under this section. The department shall
 96 publish an updated version of the list quarterly. The updated
 97 quarterly list shall be electronically posted on the
 98 department's website. Notwithstanding this paragraph, a company
 99 disqualified from the public contracting and purchasing process
 100 pursuant to this section shall be disqualified as of the date a

101 final order is entered pursuant to paragraph (e) or paragraph
102 (5) (a).

103 (e) Upon receiving from any source reasonable and credible
104 information that a company has submitted a false certification
105 or provided to an agency a commodity produced, in whole or in
106 part, by forced labor, the department shall investigate the
107 information and determine whether good cause exists to place
108 that company on the forced labor vendor list and whether such
109 placement is in the public interest. If good cause exists and
110 placement is in the public interest, the department shall notify
111 the company in writing of the department's intent to place the
112 company on the list and of the company's right to a hearing, the
113 procedure that must be followed, and the applicable time
114 requirements. If the company does not request a hearing, the
115 department shall enter a final order placing the company on the
116 forced labor vendor list. A company may not be placed on the
117 forced labor vendor list without receiving an individual notice
118 of intent from the department.

119 1. It is not in the public interest to place a company on
120 the forced labor vendor list if any of the following apply:

121 a. The company did not provide to an agency a commodity
122 produced, in whole or in part, by forced labor;

123 b. The provision to an agency of a commodity produced, in
124 whole or in part, by forced labor was committed by an employee
125 of the company without the actual or constructive knowledge of

126 any member of the company's senior management;
127 c. The member of the company's senior management
128 responsible for the contract under which the company provided to
129 the agency a commodity produced, in whole or in part, by forced
130 labor did not have actual or constructive knowledge that the
131 commodity was produced, in whole or in part, by forced labor and
132 a reasonable person under similar circumstances to that of such
133 member would not have known that the commodity was produced, in
134 whole or in part, by forced labor;
135 d. The member of the company's senior management
136 responsible for the contract under which the company provided to
137 the agency a commodity produced, in whole or in part, by forced
138 labor is no longer an employee of the company; or
139 e. One of the following occurs:
140 (I) For a contract with an executive agency, the Governor
141 makes a public finding that, absent the provision of such
142 commodities by the company, the agency would be unable to obtain
143 the commodities for which the contract is offered.
144 (II) For a contract with an agency of a state
145 constitutional officer other than the Governor, the state
146 constitutional officer makes a public finding that, absent the
147 provision of such commodities by the company, the agency would
148 be unable to obtain the commodities for which the contract is
149 offered.
150 2. In determining whether it is in the public interest to

151 place a company on the forced labor vendor list, the following
152 factors shall be considered:

153 a. The nature and details of the provision of the
154 commodity produced, in whole or in part, by forced labor.

155 b. The degree of culpability of the company proposed to be
156 placed on the forced labor vendor list.

157 c. Prior or future self-policing by the company to prevent
158 the provision of a commodity produced, in whole or in part, by
159 forced labor.

160 d. The company's compliance with paragraph (c).

161 e. The needs of agencies for additional competition in the
162 procurement of commodities in their respective markets.

163 f. Mitigation based upon any demonstration of good
164 citizenship by the company, including, but not limited to, the
165 adoption of a formal plan to cease producing or providing
166 commodities produced, in whole or in part, by forced labor.

167 (f) A company that submits a false certification under
168 paragraph (b) or that should have known that a commodity
169 provided under a contract with an agency was produced, in whole
170 or in part, by forced labor and is subsequently placed on the
171 forced labor vendor list may be assessed a fine of \$1,000 or an
172 amount equal to 20 percent of the value of the commodity
173 provided to the agency under the contract, whichever is greater.

174 (5) (a) Within 21 days after receipt of the notice of
175 intent pursuant to paragraph (4) (e), the company may file a

176 petition for a hearing involving disputed issues of material
177 fact pursuant to ss. 120.569 and 120.57(1) to challenge the
178 agency's determination that the company's placement on the
179 forced labor vendor list is in the public interest. A company
180 may not file a petition for a hearing not involving disputed
181 issues of material fact under s. 120.57(2). Chapter 120 applies
182 to a hearing under this section except that:

183 1. The petition shall be filed with the department. The
184 department shall be a party to the proceeding for all purposes.

185 2. Within 5 days after the filing of the petition, the
186 department shall notify the Division of Administrative Hearings
187 of the request for a hearing pursuant to ss. 120.569 and
188 120.57(1). The director of the Division of Administrative
189 Hearings shall, within 5 days after receipt of notice from the
190 department, assign an administrative law judge to preside over
191 the proceeding. The administrative law judge, upon request by a
192 party, may consolidate related proceedings.

193 3. The administrative law judge shall conduct the hearing
194 within 30 days after being assigned, unless otherwise stipulated
195 by the parties.

196 4. Within 30 days after the hearing or receipt of the
197 hearing transcript, whichever is later, the administrative law
198 judge shall enter a final order, which shall consist of findings
199 of fact, conclusions of law, interpretation of agency rules, and
200 any other information required by law or rule to be contained in

201 the final order. Such final order shall place or not place the
 202 company on the forced labor vendor list.

203 5. The final order of the administrative law judge shall
 204 be final agency action for purposes of s. 120.68.

205 6. At any time after the filing of the petition, informal
 206 disposition may be made pursuant to s. 120.57(4). In that event,
 207 the administrative law judge shall enter a final order adopting
 208 the stipulation, agreed settlement, or consent order.

209 (b) In any proceeding under this section, the department
 210 is required to prove by clear and convincing evidence that it is
 211 in the public interest for the company to which the department
 212 has provided notice of intent pursuant to paragraph (4) (e) to be
 213 placed on the forced labor vendor list. Proof that such company
 214 provided to an agency a commodity produced, in whole or in part,
 215 by forced labor constitutes a rebuttable presumption that it is
 216 in the public interest for the company to be placed on the
 217 forced labor vendor list.

218 (c) Upon establishment of the rebuttable presumption in
 219 paragraph (b) that it is in the public interest for the company
 220 to be placed on the forced labor vendor list, that company may
 221 prove by a preponderance of the evidence that it is not in the
 222 public interest for such company to be placed on the list based
 223 upon evidence addressing the provisions of sub-subparagraph
 224 (4) (e)1. or the factors in sub-subparagraph (4) (e)2.

225 (d)1. A company on the forced labor vendor list may

226 petition for such company's removal from the list no sooner than
227 6 months after the date a final order is entered placing the
228 company on the list. The petition shall be filed with the
229 department and the proceeding shall be conducted pursuant to
230 this subsection.

231 2. A company may be removed from the forced labor vendor
232 list subject to such terms and conditions as may be prescribed
233 by the administrative law judge upon a determination that
234 removal is in the public interest. In determining whether
235 removal is in the public interest, the administrative law judge
236 shall give consideration to any relevant factors, including
237 whether the company has prepared a corrective action plan that
238 addresses the original grounds for placement on the list as well
239 as any additional evidence that the company has in good faith
240 taken significant remedial action.

241 3. If a petition for removal is denied, the company may
242 not petition for another hearing on removal for a period of 9
243 months after the date of denial. The department may petition for
244 removal before the expiration of such period if, in the
245 department's discretion, the department determines that removal
246 would be in the public interest.

247 (6) Placement on the forced labor vendor list does not
248 affect any rights or obligations under any contract, franchise,
249 or other binding agreement which predates such placement.

250 (7) Any fines collected under this section shall be

HB 1331

2024

251 | deposited into the General Revenue Fund.

252 | Section 2. This act shall take effect July 1, 2024.