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SB-1241 Employment contracts: adjudication: choice of law and forum. (2015-2016)

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Senate Bill No. 1241

CHAPTER 632

An act to add Section 925 to the Labor Code, relating to employment contracts.

[Approved by Governor September 25, 2016. Filed with Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1241, Wieckowski. Employment contracts: adjudication: choice of law and forum.

Existing law regulates the terms and conditions of labor contracts. Existing law prohibits an employer from requiring an employee or applicant for employment to agree, in writing, to any term or condition that is known by the employer to be illegal. Existing law creates the Division of Labor Standards Enforcement, which is under the direction of the Labor Commissioner, and generally commits to the commissioner the authority and responsibility for the enforcement of employment laws.

This bill, for contracts entered into, modified, or extended on or after January 1, 2017, would prohibit an employer from requiring an employee who primarily resides and works in California, as a condition of employment, to agree to a provision that would require the employee to adjudicate outside of California a claim arising in California or deprive the employee of the substantive protection of California law with respect to a controversy arising in California. The bill would make any provision of a contract that violates these prohibitions voidable, upon request of the employee, and would require a dispute over a voided provision to be adjudicated in California under California law. The bill would specify that injunctive relief is available and would authorize a court to award reasonable attorney's fees. The bill would provide that adjudication includes litigation and arbitration for purposes of these provisions. The bill would except from these provisions a contract with an employee who was represented by legal counsel, as specified.

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

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

SECTION 1. Section 925 is added to the Labor Code, to read:

925. (a) An employer shall not require an employee who primarily resides and works in California, as a condition of employment, to agree to a provision that would do either of the following:

- (1) Require the employee to adjudicate outside of California a claim arising in California.
- (2) Deprive the employee of the substantive protection of California law with respect to a controversy arising in California.

(b) Any provision of a contract that violates subdivision (a) is voidable by the employee, and if a provision is rendered void at the request of the employee, the matter shall be adjudicated in California and California law shall govern the dispute.

(c) In addition to injunctive relief and any other remedies available, a court may award an employee who is enforcing his or her rights under this section reasonable attorney's fees.

(d) For purposes of this section, adjudication includes litigation and arbitration.

(e) This section shall not apply to a contract with an employee who is in fact individually represented by legal counsel in negotiating the terms of an agreement to designate either the venue or forum in which a controversy arising from the employment contract may be adjudicated or the choice of law to be applied.

(f) This section shall apply to a contract entered into, modified, or extended on or after January 1, 2017.