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AB-1654 Labor Code Private Attorneys General Act of 2004: construction industry. (2017-2018)

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Date Published: 09/19/2018 09:00 PM

Assembly Bill No. 1654

CHAPTER 529

An act to add and repeal Section 2699.6 of the Labor Code, relating to employment.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1654, Rubio. Labor Code Private Attorneys General Act of 2004: construction industry.

The Labor Code Private Attorneys General Act of 2004 authorizes an aggrieved employee to bring a civil action to recover specified civil penalties, that would otherwise be assessed and collected by the Labor and Workforce Development Agency, on behalf of the employee and other current or former employees for the violation of certain provisions affecting employees. The act requires the employee to follow prescribed procedures before bringing an action and establishes alternate procedures for specific categories of violations. The act requires, except as provided, that 75% of the civil penalties recovered by aggrieved employees be distributed to the Labor and Workforce Development Agency for enforcement of labor laws and for education of employers and employees about their rights and responsibilities, and 25% be distributed to the aggrieved employees.

This bill would except from the act an employee in the construction industry, as defined, with respect to work performed under a valid collective bargaining agreement in effect any time before January 1, 2025, that contains certain provisions, including, among others, a grievance and binding arbitration procedure to redress violations that authorizes the arbitrator to award otherwise available remedies. The bill would authorize the exception until the collective bargaining agreement expires or until January 1, 2028, whichever is earlier, and would repeal the bill's provisions on January 1, 2028.

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

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

SECTION 1. Section 2699.6 is added to the Labor Code, to read:

2699.6. (a) This part shall not apply to an employee in the construction industry with respect to work performed under a valid collective bargaining agreement in effect any time before January 1, 2025, that expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and for the employee to receive a regular hourly pay rate of not less than 30 percent more than the state minimum wage rate, and the agreement does all of the following:

- (1) Prohibits all of the violations of this code that would be redressable pursuant to this part, and provides for a grievance and binding arbitration procedure to redress those violations.
- (2) Expressly waives the requirements of this part in clear and unambiguous terms.

(3) Authorizes the arbitrator to award any and all remedies otherwise available under this code, provided that nothing in this section authorizes the award of penalties under this part that would be payable to the Labor and Workforce Development Agency.

(b) Except for a civil action under Section 2699, nothing in this section precludes an employee from pursuing any other civil action against an employer, including, but not limited to, an action for a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), Title VII of the Civil Rights Act of 1964 (Public Law 88-352), or any other prohibition of discrimination or harassment.

(c) The exception provided by this section shall expire on the date the collective bargaining agreement expires or on January 1, 2028, whichever is earlier.

(d) For purposes of this section, "employee in the construction industry" means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.