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SB-1384 Labor Commissioner: financially disabled persons: representation. (2019-2020)

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Senate Bill No. 1384

CHAPTER 239

An act to amend Section 98.4 of the Labor Code, relating to employment.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1384, Monning. Labor Commissioner: financially disabled persons: representation.

Existing law provides that the Labor Commissioner may, upon request, represent a claimant who is financially unable to represent themselves in a hearing where an employer is appealing an order of the commissioner. Existing law also provides that if the claimant is attempting to uphold the amount awarded by the commissioner and is not objecting to any part of the final order, the commissioner is required to represent the claimant.

This bill would extend the authority of the commissioner to also represent a claimant who is financially unable to represent themselves in a hearing where a court order has compelled arbitration to determine the claim and the commissioner has determined that the claim has merit. The bill would also require that a petition to compel arbitration pursuant to specified statutes be served on the Labor Commissioner.

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

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

SECTION 1. Section 98.4 of the Labor Code is amended to read:

98.4. (a) The Labor Commissioner may, upon the request of a claimant financially unable to afford counsel, represent such claimant in the de novo proceedings provided for in Section 98.2, notwithstanding whether such proceedings are held in a judicial or arbitral forum. In the event that such claimant is attempting to uphold the amount awarded by the Labor Commissioner and is not objecting to any part of the Labor Commissioner's final order, the Labor Commissioner shall represent the claimant.

(b) A wage claimant unable to have their claim adjudicated and decided by the Labor Commissioner under Sections 98 and 98.1 as the result of entry of a court order compelling arbitration may request that the Labor Commissioner represent the claimant in the arbitral proceeding. The Labor Commissioner shall represent the claimant in the arbitral proceeding if the claimant is financially unable to afford counsel, and if the Labor Commissioner determines, upon conclusion of an informal investigation, that the claim has merit.

(c) A petition to compel arbitration of a claim that is pending under Section 98, 98.1 or 98.2 shall be served on the Labor Commissioner. Upon request of a claimant, the Labor Commissioner shall have the right to represent the claimant in proceedings

to determine the enforceability of the arbitration agreement, notwithstanding whether the adjudication of the enforceability of the arbitration agreement is conducted in a judicial or arbitral forum.