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## AB-1034 Labor Code Private Attorneys General Act of 2004: exemption: construction industry employees. (2023-2024)

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### Assembly Bill No. 1034

#### CHAPTER 803

An act to amend Section 2699.6 of the Labor Code, relating to employment.

[ Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1034, Grayson. Labor Code Private Attorneys General Act of 2004: exemption: construction industry employees.

The Labor Code Private Attorneys General Act of 2004 (PAGA) authorizes an aggrieved employee, as defined, to bring a civil action on behalf of that employee, and other current or former employees against whom a violation of the same provision of the Labor Code was committed, to enforce a violation of any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency, as specified, pursuant to certain notice and cure provisions, as prescribed. PAGA exempts, until January 1, 2028, from its provisions 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% more than the state minimum wage rate, and does certain things, including prohibits all of the violations of the Labor Code that would be redressable pursuant to PAGA and provides for a grievance and binding arbitration procedure to redress those violations.

This bill would delete the January 1, 2025, date described above and would extend the sunset of the exemption described above until January 1, 2038.

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 of the Labor Code is amended 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 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, this section does not preclude 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) 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.

(d) This section shall remain in effect only until January 1, 2038, and as of that date is repealed.