

**Introduced by Senator Kuehl**

February 21, 2001

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An act to add Section 1670.1 to the Civil Code, and to amend Section 1281 of the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

SB 410, as introduced, Kuehl. Arbitration.

Existing law provides that a written agreement to submit to arbitration an existing controversy or a controversy thereafter arising is valid, enforceable, and irrevocable, save upon such grounds as exist for the revocation of any contract.

This bill would provide, as an exception thereto, that no employer may require an employee to agree to arbitrate any claims arising under the Fair Employment and Housing Act, as specified, as a condition of employment or continued employment; or may harass, discharge, expel, or otherwise discriminate against any person in any term or condition of employment because he or she has refused to agree to arbitrate any such claim; and any arbitration provision obtained in violation of this provision is void and shall be deemed involuntary, beyond the reasonable expectations of the employee, unconscionable, and against public policy.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares that it is the
- 2 public policy of the State of California to ensure that employees
- 3 have the full benefit of the rights and protections contained in the

1 Fair Employment and Housing Act and that employees not be  
2 deprived of those rights and protections by the use of mandatory  
3 and involuntary predispute binding arbitration provisions.

4 Further, involuntary predispute binding arbitration provisions  
5 which limit access to the Department of Fair Employment and  
6 Housing or the courts for enforcement of the provisions of the  
7 California Fair Employment and Housing Act are against the  
8 policy of this state.

9 SEC. 2. Section 1670.1 is added to the Civil Code, to read:

10 1670.1. (a) No employer may require an employee to agree  
11 to arbitrate any claims arising under the California Fair  
12 Employment and Housing Act (Part 2.8 (commencing with  
13 Section 12900) of Division 3 of Title 2 of the Government Code),  
14 as a condition of employment or continued employment.

15 (b) No employer may harass, discharge, expel, or otherwise  
16 discriminate against any person in any term or condition of  
17 employment because he or she has refused to agree to arbitrate any  
18 such claim.

19 (c) Any arbitration provision obtained in violation of this  
20 section is void and shall be deemed involuntary, beyond the  
21 reasonable expectations of the employee, unconscionable, and  
22 against public policy.

23 SEC. 3. Section 1281 of the Code of Civil Procedure is  
24 amended to read:

25 1281. ~~A~~ (a) *Except as provided in subdivision (b), a written*  
26 *agreement to submit to arbitration an existing controversy or a*  
27 *controversy thereafter arising is valid, enforceable and*  
28 *irrevocable, save upon such grounds as exist for the revocation of*  
29 *any contract.*

30 (b) *Subdivision (a) does not apply to any predispute arbitration*  
31 *agreement between an employer and employee entered into in*  
32 *violation of Section 1670.1 of the Civil Code.*

