

ASSEMBLY BILL

No. 1043

Introduced by Assembly Member Swanson

February 22, 2007

An act to add Section 924 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as introduced, Swanson. Employment contracts.

Existing law prohibits certain employment contract provisions as against public policy, including provisions that require an employee to promise to join or refrain from joining a labor organization as a condition of employment.

This bill would make void and unenforceable as against public policy any provision in an employment contract that requires an employee, as a condition of obtaining or continuing employment, to use a forum other than California, or to agree to a choice of law other than California law, in any dispute with an employer regarding employment-related issues that arise in California.

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 California
3 employees have the full benefit of the provisions of the California
4 Labor Code and other provisions of California law that relate to
5 employment and that employees should not be deprived of the
6 protection of California law by contract provisions that require

1 employees or job applicants as a condition of employment to
2 submit to the laws of other states for claims that arise from
3 employment, or the securing of employment, in California. The
4 Legislature further finds and declares that all employees should
5 have the right to access the California courts to seek redress for
6 these claims and that employees should not be required to litigate
7 these claims in foreign jurisdictions. The Legislature finds and
8 declares that any choice of law, choice of forum, or choice of venue
9 provision in a job application, employment agreement, employment
10 handbook, or other statement of an employer’s policies applicable
11 to its employees, is against the public policy of this state if the
12 provision would have the effect of: (a) requiring the employee or
13 job applicant to arbitrate or litigate outside of California claims
14 that arose from employment, or the securing of employment, in
15 California; or (b) depriving the employee or job applicant of the
16 protection of California law for claims arising from employment,
17 or the securing of employment, in California.

18 SEC. 2. Section 924 is added to the Labor Code, to read:

19 924. (a) An employer shall not require an employee or job
20 applicant, as a condition of employment, to waive the application
21 of California law to any dispute relating to employment, or the
22 securing of employment, in California.

23 (b) An employer shall not require an employee or job applicant,
24 as a condition of employment, to litigate outside of California any
25 dispute regarding employment, or the securing of employment, in
26 California.

27 (c) Any choice of law, choice of forum, or choice of venue
28 provision in a job application, employment agreement, employment
29 handbook, or other statement of an employer’s policies applicable
30 to its employees, is unconscionable, violative of the public policy
31 of this state, and void if the provision would have the effect of
32 either of the following:

33 (1) Requiring the employee or job applicant, as a condition of
34 employment, to arbitrate or litigate outside of California claims
35 that arose from employment, or the securing of employment, in
36 California.

- 1 (2) Depriving the employee or job applicant of the protection
- 2 of California law for claims arising from employment, or the
- 3 securing of employment, in California.

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