

AMENDED IN SENATE AUGUST 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 267

Introduced by Assembly Member Swanson

February 7, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 267, as amended, Swanson. Employment contracts.

Existing law prohibits certain employment contract provisions as against public policy and declares provisions in certain construction contracts between a contractor and subcontractor for work in this state that purport to require dispute resolution between the parties to be commenced or determined outside of the state to be void and unenforceable.

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, to resolve any dispute with an employer regarding employment-related issues that arise in California, and would make related changes.

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

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

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

22 924. (a) An employer shall not require an employee or job
23 applicant, as a condition of employment, to waive the application
24 of California law to any dispute relating to employment *in*
25 *California*, or *to waive the application of California law to any*
26 *dispute relating to* the securing of employment; in California.

27 (b) An employer shall not require an employee or job applicant,
28 as a condition of employment, to resolve outside of California any
29 dispute regarding employment *in California*, or *to resolve outside*
30 *of California any dispute regarding* the securing of employment;
31 in California.

32 (c) Any choice of law, choice of forum, or choice of venue
33 provision in a job application, employment agreement, employment
34 handbook, or other statement of an employer's policies applicable
35 to its employees, is unconscionable, violative of the public policy
36 of this state, and void if the provision would have the effect of
37 either of the following:

38 (1) Requiring the employee or job applicant, as a condition of
39 employment, to resolve outside of California claims that arose

1 from employment *in California*, or the securing of employment;
2 in California.

3 (2) Depriving the employee or job applicant of the protection
4 of California law for claims arising from employment *in California*,
5 or the securing of employment; in California.

6 (d) Nothing in this provision affects the right of an employee
7 to voluntarily agree to a choice of law or forum selection provision
8 that is not required as a condition of employment and that is the
9 subject of independent consideration.

O