

Assembly Bill No. 267

Passed the Assembly September 2, 2011

Chief Clerk of the Assembly

Passed the Senate August 30, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 267, 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.

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

SECTION 1. The Legislature finds and declares that it is the public policy of the State of California to ensure that California employees have the full benefit of the provisions of the California Labor Code and other provisions of California law that relate to employment and that employees should not be deprived of the protection of California law by contract provisions that require employees or job applicants as a condition of employment to submit to the laws of other states for claims that arise from employment, or the securing of employment, in California. The Legislature further finds and declares that all employees should have the right to access the California courts to seek redress for these claims and that employees should not be required to resolve these claims in foreign jurisdictions. The Legislature finds and declares that any choice of law, choice of forum, or choice of venue provision in a job application, employment agreement, employment

handbook, or other statement of an employer's policies applicable to its employees, is against the public policy of this state if the provision would have the effect of: (a) requiring the employee or job applicant to resolve outside of California claims that arose from employment, or the securing of employment, in California; or (b) depriving the employee or job applicant of the protection of California law for claims arising from employment, or the securing of employment, in California.

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

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

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

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

(1) Requiring the employee or job applicant, as a condition of employment, to resolve outside of California claims that arose from employment in California, or the securing of employment in California.

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

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

Approved _____, 2011

Governor