

California Strikes Again! Senate ‘OKs’ Bill Limiting Employment Arbitration

August 28, 2015 | [Employment Lessons, Currents - Employment Law](#)

This week the California State Senate passed a measure that would block most employers from forcing workers to agree to arbitrate labor disputes instead of filing claims with state agencies or courts. The senate approved the measure, AB-465—which is sponsored by the California Labor Federation and has drawn fierce opposition from the California Chamber of Commerce. Following AB-465’s passage, the senate ordered the bill to the assembly. The bill would add a new provision to the Labor Code to prohibit any person from:

“[R]equir[ing] another person to waive any legal right, penalty, remedy, forum, or procedure for a violation of any provision of [the California Labor Code], as a condition of employment, including the right to file and pursue a civil action or complaint with, or otherwise notify, the Labor Commissioner, state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity.”

In sum, AB-465 would prohibit companies from requiring employees to waive their legal rights to provisions of the state labor code as a condition of employment. If enacted, the bill would make such waivers, including class action waivers unconscionable and unenforceable - if made a condition of employment. The bill also would make it unlawful to threaten, retaliate or discriminate against any person who refuses to sign such a waiver. The California Chamber of Commerce has called AB-465 a “job killer,” stating that it would drive up litigation costs for all California employers and put pressure on an already-overburdened judicial system with more class actions and other suits—especially involving wage and hour issues—and would result in a substantial change in the law. The organization has also argued that the measure is likely preempted by the Federal Arbitration Act. If AB-465 becomes California law, employers will need to ensure that any agreement to submit claims to arbitration are voluntary on their face. Many new employees will choose to willfully sign arbitration agreements even when they are not conditioned on employment. Stay tuned on how this law develops.

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