

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 1 - 0

Yeas: Avakian, Gordly, Monroe, Prozanski

Nays: Beyer

Exc.: 0

Prepared By: Anna Braun, Administrator

Meeting Dates: 4/25, 4/30

WHAT THE MEASURE DOES: Requires that, in order to be valid, employers must inform employees that mandatory arbitration clauses and noncompetition agreements are required prior to the employee accepting employment or a subsequent bona fide advancement. Prohibits enforcement of noncompetition agreement if employee is terminated for any reason other than just cause. Defines just cause. Requires that employee be rehired within 90 days if laid off or noncompetition agreement is void. Defines "laid off". Allows exception if employee is paid full compensation. Exempts chief executive officers, chief financial officers and members of a board of directors. Clarifies that agreements to protect customer lists are valid.

ISSUES DISCUSSED:

- Impact on insurance agents
- Impact to employees who have been laid off
- California and Texas prohibitions on noncompetition agreements

EFFECT OF COMMITTEE AMENDMENT: Adds the provisions regarding noncompetition agreements.

BACKGROUND: Noncompetition agreements are becoming more common. Agreements have historically been used to protect access to sensitive information or preserve the investment in key employees. Because of noncompetition agreements, some employees must travel long distances to find work or change fields.

Current law requires that the agreements be entered into at the initial employment of the employee or at a subsequent bona fide advancement of the employee. SB 248 A requires that the agreements be entered into prior to the acceptance of employment or at a subsequent bona fide advancement of the employee. In addition, SB 248 A adds a new distinction between employees who have been terminated for just cause and those who have been laid off. Those who have been laid off for any reason other than just cause are not subject to the noncompetition agreement. Those who have been laid off due to an economic downturn must be rehired at a similar position within 90 days or the noncompetition agreement is void. However, if an employee is receiving full compensation during the period of lay off the noncompetition agreement is still effective. Chief executive officers, chief financial officers, and members of a company's board of directors are exempt and subject to noncompetition agreements. In addition, agreements not to solicit or transact business with customers of the employer remain valid.