Date of Hearing: August 11, 2020

## ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

SB 1384 (Monning) – As Amended March 25, 2020

Policy Committee: Labor and Employment Vote: 6 - 1

Urgency: No State Mandated Local Program: No Reimbursable: No

## **SUMMARY**:

This bill allows the Division of Labor Standards Enforcement (DLSE) to represent wage claimants in arbitral proceedings as well as proceedings to determine the enforceability of an arbitration agreement.

## FISCAL EFFECT:

Minor and absorbable costs to the DLSE.

## **COMMENTS**:

- 1) Wage claims and Berman Hearings. A worker may pursue a wage claim through an administrative process overseen by DLSE. The parties first meet for a settlement conference, and if that does not yield an agreement then they can present their cases through a process commonly referred to as a "Berman Hearing." A Berman Hearing allows both parties to present evidence, documents and witnesses, and DLSE issues an order shortly after. In cases when the worker is unable to afford an attorney, DLSE can represent the worker in that hearing.
- 2) Mandatory arbitration and recent legislative action. Mandatory arbitration occurs when a company requires, as a condition of employment, an employee to submit any dispute that may arise to binding arbitration. In these instances, the employee waives their right to sue or to file an employment complaint. In response to increased use of mandatory arbitration, the Legislature passed AB 51 (Gonzalez), Chapter 711, Statutes of 2019, to prohibit an employer from waiving any right or procedure of any provision of the Fair Employment and Housing Act (FEHA) or the Labor Code as a condition of employment or continued employment.
- 3) **Purpose**. According to the author, this bill "addresses the increasing use of mandatory arbitration agreements in employment and would allow the Division of Labor Standards Enforcement (DLSE) to represent wage claimants in arbitral proceedings when they are unable to resolve the wage claim during a Berman hearing."

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