



Shielding Calif. Employers From Labor Code Violations, *Law360*, by Katherine Catlos and Lauren Ziegler

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California Gov. Jerry Brown once again seeks to rein in lawsuits under the Private Attorneys General Act (PAGA). This statute “deputizes” aggrieved employees to recover civil penalties for California Labor Code violations. Prior to the enactment of PAGA, some labor code violations were only enforceable by the Labor and Workforce Development Agency (LWDA), which is the administrative agency tasked with overseeing enforcement of the labor code. In effect, PAGA allows current or former employees to step in the shoes of the labor commissioner to directly enforce labor code violations via private rights of action against employers.

Before filing a PAGA suit, employees must send written notice to the employer and the LWDA within one year of the last violation. The letter must list the specific labor code sections allegedly violated. After receiving the letter, the agency decides whether to investigate the claims, while the employer is provided with notice of a potential lawsuit and the opportunity to fix certain violations within the 33-day “cure” period. If the LWDA decides against pursuing the case or the employer doesn’t fix the curable violations within the cure period, the employee may file a lawsuit to seek civil penalties for violations not only personally suffered by the plaintiff but also for violations suffered by “other current or former aggrieved employees.” Cal. Lab. Code § 2699(a).