

## **New PAGA Amendments – What Employers Doing Business in California Need to Know**

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We previously reported on Governor Brown's 2016/2017 [budget change proposal](#) as something employers should monitor. The proposal included increased funding for the Labor & Workforce Development Agency ("LWDA"), the agency responsible for overseeing the Private Attorneys General Act of 2004 ("PAGA"). The budget proposal also contained recommendations for widespread changes to the way PAGA cases are handled.

On June 15, 2016, the California Legislature passed SB 836, which contained numerous amendments to the PAGA. While not all of the original proposals were enacted, there are several significant changes of which employers should be aware.

- While PAGA notices previously were required to be provided to the employer and the LWDA by certified mail, PAGA notices are now required to be provided to the LWDA online, accompanied by a \$75 filing fee, unless the filing party obtains a waiver.
- Any employer response to the notice must also be accompanied by a \$75 filing fee, unless the employer obtains a waiver.
- The LWDA now has 60 days to review a notice under Labor Code § 2699.3(a), rather than the 30 days it previously had.
- For cases filed on or after July 1, 2016, the time for the LWDA to investigate the claim has been extended from 120 to 180 days.
- For cases filed on or after July 1, 2016, the aggrieved employee or representative must provide a file-stamped copy of the complaint, which includes the case number assigned by the court.
- A civil action cannot be filed until 65 days after the aggrieved employee sends notice to the LWDA. The previous waiting period was 33 days.
- Any proposed settlement provided to the superior court for review must also be submitted to the LWDA at the same time it is submitted to the court.

- Any superior court judgment in a civil action that provides for, or denies, an award of civil penalties pursuant to PAGA must be submitted to the LWDA within 10 days after entry of the judgment or order.
- Any PAGA cure notices submitted by employers to the LWDA must be submitted online.

The PAGA amendments set the stage for the LWDA to assert heightened scrutiny of PAGA cases and settlements, as the LWDA will have more time, information, and resources at its disposal. (The Department of Industrial Relations (“DIR”) had estimated “less than 1% of cases have historically been reviewed/investigated.”) It remains to be seen how the LWDA will utilize its authority, and whether the amendments help curb some of the abuses to PAGA litigation, or instead create uncertainty and increased litigation costs for employers defending PAGA claims.

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