

2024 California Ballot Initiative Could Repeal PAGA

In November 2024, California voters will have the opportunity to pass a ballot initiative to repeal the California Labor Code's (Labor Code) Private Attorneys General Act of 2004, Cal. Lab. Code § 2698, *et seq.* (PAGA). PAGA allows an "aggrieved employee" to sue their employer on behalf of themselves and other current and former employees to recover civil penalties for Labor Code violations (assuming the aggrieved employee follows the preliminary prerequisites to filing the lawsuit). Prior to PAGA, only the California government could recover such civil penalties through enforcement actions brought by the California Labor and Workforce Development Agency (LWDA). Accordingly, in PAGA actions, a plaintiff who initiates an action serves as an "agent" or "proxy" of the California government. If an aggrieved employee recovers civil penalties, the aggrieved employees receive 25% of the recovery, with 75% of the penalties going to the state.

The ballot initiative, termed the California Fair Pay and Employer Accountability Act (FPEAA), seeks to eliminate an individual employee's ability to initiate private actions to obtain civil penalties for purported violations of the Labor Code. Instead, the FPEAA requires employees to report purported Labor Code violations to the Division of Labor Standards Enforcement (DLSE) to obtain the civil penalties they currently seek under PAGA.

The FPEAA aims to impose various other changes, such as allowing employees to recover 100% of the penalties and eliminating the recovery of attorneys' fees.

Given the potential changes, California employers should monitor the results of the 2024 ballot initiative.

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