



STOKES WAGNER

ATTORNEYS AT LAW

ATLANTA • ITHACA • LOS ANGELES • PITTSBURGH • SAN DIEGO • SAN FRANCISCO

Unionized Janitorial Workers Exempt from PAGA

Effective January 1, 2022, a new law exempts certain unionized janitorial employees from suing under the Private Attorneys General Act of 2004 [“PAGA”]. On September 27, 2021, Governor Newsom signed [SB 646](#) into law which specifies that unionized janitorial workers covered by a valid CBA will no longer be allowed to bring civil actions under PAGA if the CBA expressly provides for:

- the wages, hours of work, and working conditions of employees;
- premium wage rates for all overtime hours worked;
- grievance and binding arbitration procedures that authorizes the arbitrator to award otherwise available remedies for Labor Code violations; and
- authorization of the labor union to pursue a grievance on behalf of employees.

A “janitorial employee” is defined as “an employee whose primary duties are to clean and keep in an orderly condition commercial working areas and washrooms, or the premises of an office, multiunit residential facility, industrial facility, health care facility, amusement park, convention center, stadium, racetrack, arena, or retail establishment.” In drafting SB 646, legislators acknowledge that PAGA is a costly and time-intensive process and want to incentivize collective bargaining and mandatory arbitration instead of enforcement by the courts.

This PAGA exemption will expire the date that the CBA expires or July 1, 2028, whichever is earlier. Importantly, SB 646 does not preclude a janitorial worker from pursuing other civil actions against the employer, including violations of the California Fair Employment and Housing Act, or other prohibitions of discrimination and harassment.

THIS DOCUMENT PROVIDES A GENERAL SUMMARY AND IS FOR INFORMATIONAL/EDUCATIONAL PURPOSES ONLY. IT IS NOT INTENDED TO BE COMPREHENSIVE, NOR DOES IT CONSTITUTE LEGAL ADVICE. PLEASE CONSULT WITH COUNSEL BEFORE TAKING OR REFRAINING FROM TAKING ANY ACTION.

[Questions? Contact Stokes Wagner.](#)