



Amendments to the labor reform remain in force

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The Secretary of the Department of Labor and Human Resources (DTRH), **Gabriel Maldonado González**, and former Secretary **Carlos Saavedra Gutiérrez** confirmed to **Microjuris** that the amendments to the Labor Reform, established in [Law 41-2022](#), remain in force until a competent court determines otherwise.

The clarification comes after the Financial Supervision and Administration Board (JSAF) yesterday sent a [letter](#) to the executive director of the Financial Advisory Authority and Fiscal Agency (AAFAF), **Omar Marrero Díaz**, in which it determined that the government should immediately suspend the application and compliance with [Law 41 of 2022](#).

Maldonado González reminded all companies – except micro, small and medium enterprises – that from today, Wednesday, they will have to comply with the provisions of the amendments to the Labor Reform. Meanwhile, micro, small and medium-sized enterprises will have until September 18 to start compliance.

*The secretary of the Department of Labor and Human Resources explained to **Microjuris** that "in strictly legal terms the law went into effect."*

Maldonado González called on employers to prepare and have their manuals and systems up to date because – until a court determines otherwise – Law 41 of 2022 remains in force. At the same time, he stressed that the legal and business community must be attentive to any development.

Secretary Maldonado González pointed out that the Oversight Board cannot paralyze the effect of a law by letter. The lawyer also stressed that the way in which the government can paralyze a law is not through a public expression, but that an amendment or concurrent resolution would be required to change the effective date of Law 41 of 2022, with all the legislative process that the action would require. The board, for its part, has the alternative of going to court and presenting its arguments to the court.

Maldonado González recalled that the Department of Labor and Human Resources developed support materials to facilitate organizational preparation for the changes brought by Law 41 of 2022, among which are:

- [The ABC of the 2017 Labor Reform Amendments](#) (document)
- [The ABC of labor reform amendments](#) (video)
- [Opinion of the Secretary No. 2022-01](#) (to discuss the prospective effect of the reduction of the statutory period amended in Law No. 41-2022)
- [Opinion of the Secretary No. 2022-02](#) (on criteria for defining micro enterprises and small and medium-sized merchants for the purposes of Law No. 41-2022)
- [Opinion of the Secretary No. 2022-03](#) (criteria for the accumulation of leave for holidays and sickness of part-time employees)



[Check here to learn more about the documents and regulatory processes related to Law No. 41-2022.](#)

On the other hand, former Secretary Saavedra Gutiérrez explained to **Microjuris** that [the letter from the Supervisory Board](#) was to be expected, since the board had sent a first communication before the measure became law, where they already advanced that, from their crucible, it was not in accordance with section 204 and 108 of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

In addition to urging the suspension of the law, yesterday, Tuesday, the Oversight Board required a series of documents before Friday, July 22, 2022. The determination of the JSAF arises from the analysis of its economist and studies within the fiscal body, as can be seen from the letter.

Saavedra Gutierrez stressed that the 10 pages of the Oversight Board's letter give the impression that they are preparing to litigate the validity of the law. During the conversation, the former secretary recalled that the fiscal board has challenged more than a dozen laws since 2019 and that it has always won lawsuits.

As the lawyer described, both the Title III Court and the First Circuit Court of Appeals in Boston have been deferential to the JSAF's approaches, as long as they demonstrate that their approaches are not arbitrary or capricious.

"The board has the easiest picture by the loosest standard," the lawyer explained, referring to the fact that they are usually required to prove that their determinations do not start from an arbitrary or capricious examination.

However, this time the Oversight Board would face a different controversy, because unlike other occasions, it is a legislation that mainly affects the private sector in Puerto Rico and not the government. For Saavedra Gutiérrez, this time the Supervisory Board could be "testing how far its power goes."

The lawyer also stressed that this public discussion is affecting the ease of doing business in Puerto Rico. When asked what he would say to employers, he stressed that people should know that they should be aware of the development of this news and that "as long as Judge [Laura Taylor] Swain does not determine otherwise, the law is in force."

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