

2015 BOOK OF LISTS
The #1 resource for Tri-County business.



PUBLISHES DEC. 26.

Contact Jared Godinez at (805) 845-2733 or jgodinez@pacbiztimes.com
or Veronica Kusmuk at (805) 845-2708 or vkusmuk@pacbiztimes.com.

For more
information
click here

(<http://www.pacbiztimes.com/lists/>)

PACIFIC COAST BUSINESS TIMES

Proudly serving Ventura, Santa Barbara and San Luis Obispo counties

Groundwater rules and mandatory sick leave in spotlight

By [Stephen Nellis](#) / Friday, October 10th, 2014 / Comments Off

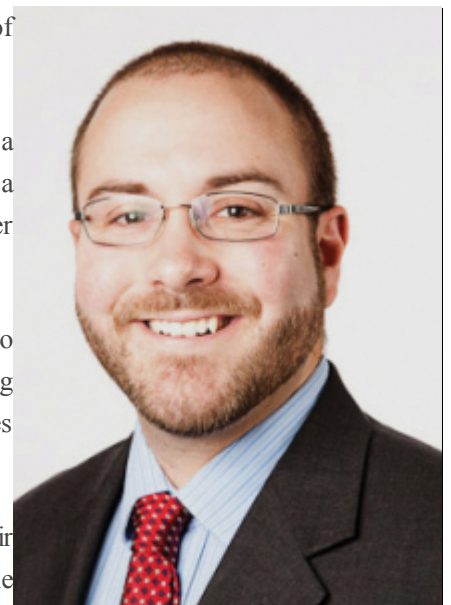
While the water law will introduce formal management to many basins in the region for the first time, it doesn't fundamentally change the idea of proprietary groundwater rights. In employment law, starting next summer, California businesses of all sizes will have to give all employees — part-time, full-time or even temporary, exempt or non-exempt — at least three days a year of paid sick time.

California's lack of statewide oversight of groundwater pumping has long been a source of conflict among landowners — and income among water attorneys.

Groundwater pumping rights were viewed as being linked to property rights, with a landowner able to pump as much as desired unless a conflict came about that required a court to step in. But that era is coming to an end, with the Sustainable Groundwater Management Act passed in recent weeks.

Local governments will need to form so-called Groundwater Sustainability Agencies to oversee the state's most troubled basins and come up with a plan to avoid draining supplies, seawater intrusion and other so-called "undesirable results." If local agencies can't effectively regulate their basins, state officials will be able to step in as a last resort.

In some cases, big agricultural water users may be required to monitor and report their pumping as part of sustainability plans. But landowners will have a chance to become involved through local governments in the process.



Stephen Nellis

"None of this is going to happen behind closed doors," said Olivia Marr, an associate with Buynak, Fauver, Archbald & Spray in Santa Barbara.

While the law will introduce formal management to many basins in the region for the first time – Paso Robles, Ojai, Santa Ynez and the Santa Clara River watershed would all be affected — it doesn't fundamentally change the idea of proprietary groundwater rights.

“We're not doing a state agency, command-and-control downward approach. We're doing local control upward,” said Russell McGlothlin, a shareholder in Brownstein Hyatt Farber Schreck's Santa Barbara office who worked with legislators on the bill's language over the past six months. “That's always been the position of water stakeholders in California: keep it local.”

Basins where conflicts have already been settled by courts, such as in Santa Maria, won't be affected. A sister bill is expected soon to smooth out the process for taking such conflicts to court when they can't otherwise be resolved.

The idea is cut the adjudication process from the current 15 to 20 years of court battles to three to five years, McGlothlin said.

“Putting off groundwater management for 20 years while you go through a lengthy adjudication process isn't in the interest of the stakeholders or the resource,” McGlothlin said.

Sick leave on horizon

Starting next summer, California businesses of all sizes will have to give all employees — part-time, full-time or even temporary, exempt or non-exempt — at least three days a year of paid sick time. Connecticut has a similar law, but it only affects firms with 50 or more employees.

“This is the first state in the country to adopt a paid sick leave law that is applicable to every size business,” said Kathy Eppright of Andre, Morris & Buttery in San Luis Obispo.

The basics of the law are easy enough: Give workers three days' sick time immediately at the start of a year, or let them accrue at least six days, with three per year carried over.

But there are a bevy of questions still unanswered. If time off is guaranteed under the law, can employees be disciplined for abusing sick leave policies, such as when one gets a headache every Friday at 4:30 p.m.? Can employers require a doctor's note?

There are also uncertainties for seasonal employers. Technically, a person must receive paid sick leave if they work more than 30 days, but they aren't entitled to use that time until they've worked 90 days.

“What does that mean for businesses like wineries that hire in that 30- to 90-day window? It's a benefit that has to be offered but can't be used and doesn't have to be paid out upon termination,” Eppright said.

The bottom line is that businesses of every size will be subject to tracking the benefit — something as simple as forgetting to print sick time on pay stubs for seasonal workers could result in hundreds of thousands of dollars in fines. While other regulations require unpaid time off, this is California's first foray into mandatory paid time off, said Karen Gabler of Camarillo-based LightGabler.

“The very basic assumption that the state can tell you that you must give time off, you must give pay or you must give this or that to your employees — it's effectively expanding the minimum wage to other areas of the employer-employee relationship,” she said.

Anderson Kill starts cyber group

David Wood of the Ventura office of New York-based Anderson Kill will serve as deputy chair of a newly created Cyber Insurance Recovery group.

Anderson Kill specializes in helping businesses recover money from their insurers when claim payouts are either denied or

disputed. The Cyber Insurance group will focus on helping clients get maximum coverage for losses incurred from data breaches and other technology-related problems.

• *Editor's note: Staff Writer Elijah Brumback will be taking over the law column in November. Reach him at ebrumback@pacbiztimes.com.*

Related Articles



Friday, October 24th, 2014

[Pumpkin growers spooked by drought conditions](#)



Friday, October 10th, 2014

[Herds shrink, ranchers suffer as drought takes toll](#)

Friday, August 22nd, 2014

[Editorial: Paso Robles makes progress on water issue](#)