

California sick leave law expands COVID benefits

SB 95 provides paid time to employees caring for their health or family

By SUSAN WOOD
The North Bay Business Journal

A COVID-19-inspired state law expands supplemental paid sick leave, allowing employees to take up to 80 hours of paid leave, whether they contract the virus or are caring for a family member.

California Gov. Gavin Newsom signed Senate Bill 95 into law on March 19. It expires Sept. 30.

The leave option for employees took effect on March 29 but allows the staffer to request the time retroactively from Jan. 1 in case the standard “paid time off” was used. The pay amounts to \$511 per day (not to exceed \$5,110) and applies to companies with more than 25 employees.

“The employee can request the PTO go back on the books,” said Lisa Ann Hilario, an employment law specialist and attorney at Spaulding McCullough & Tansil in Santa Rosa. “But employers are not required to go back and look (if the staffers took the time).”

SB 95 also clarifies that non-exempt employees, defined as hourly receiving overtime, must be paid at the highest of their regular rates.

The current law stipulates that an employee is eligible for SPSL if an oral or written request for the time off is made and the staffer is unable to work at the jobsite or remotely.

The law will allow an employee to request sick pay for:

- Quarantining or isolating due to the coronavirus as defined by guidelines issued by the California Department of Health, Centers for Disease Control and Prevention or local health officer



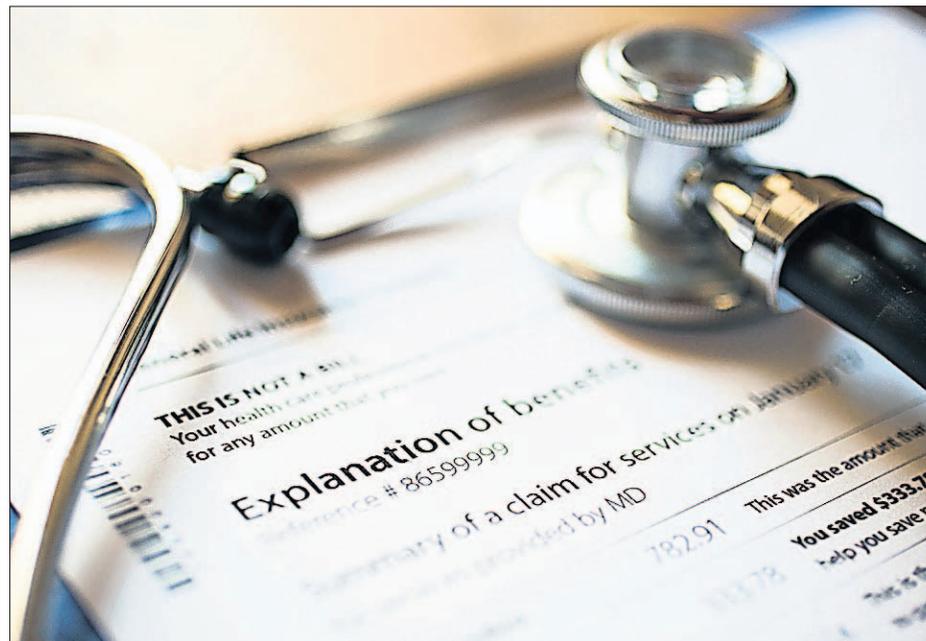
Jack
Buckhorn



Lisa Ann
Hilario



Marty
Bennett



MORE ON EMPLOYMENT LAW

The California Supreme Court took up another high-profile employment regulation challenge as indicated at <https://www.smlaw.com/employment-law-bulletin-march-18-2021>. The high court ruled that employers in the state must refrain from rounding meal break start and stop times.

Many employers across the U.S., including California's, round work start and stop times to the nearest 5-, 10- or 15-minute increment. However, since meal breaks are not required by federal law, the issue of rounding meal breaks was undecided in the state until the court issued its ruling in February. Employees must record the actual meal break start and stop times.

- Vaccine appointments
 - Those who experience symptoms of COVID-19 while seeking a medical diagnosis
 - Caring for a family member who is subject to quarantining or isolation under guidelines as well as a child whose school or place of care is closed or unavailable
- Hilario, who has fielded a number of calls on the matter at her law firm, said most companies need to be aware of the law's implications.

“This is an important law. I think employers run the gamut. We have those doing the minimum required by law; then we have employers that have elected to be

more generous,” she said.

According to the National Law Review, employers can't deny the benefits for an employee's “lack of proof.” Retaliation or discrimination by the employer may also be cause for legal action, the U.S. legal source added.

The U.S. government came out with its own version of emergency paid sick leave, but some employee advocates felt it didn't go far enough.

North Bay Labor Council union activist Marty Bennett pointed out the federal mandate is similar to the state's version, with the exception of two big caveats.

“But the law contains giant loopholes:

Companies with more than 500 workers are exempt, and firms with fewer than 50 can apply for a hardship waiver,” Bennett said in an opinion piece dated June 28, 2020 in the Press Democrat.

“We're right in the middle of a huge surge, and we felt this law was critically important,” North Bay Labor Council Executive Director Jack Buckhorn told the Business Journal.

Before the state stepped up, the labor council lobbied hard for local entities such as the city of Santa Rosa and Sonoma County to enact their own protections when it became clear the federal government's response had cracks in it. Beyond those two jurisdictions, the labor council continues to push more governments to add protections for all employees. Napa County has its version, while Marin County does not.

Each new ordinance is at least better than the federal governments, Buckhorn insists.

“Hospitals had tried to be exempt. Can you imagine? The pandemic doesn't discriminate against smaller or larger employers. People were not wearing masks. It was a mess,” Buckhorn said, reflecting on the coronavirus challenges in the last year.

“We even heard arguments from the business community that they were not opposed to emergency paid sick leave,” he said.

Now all eyes are on the business world.

“We obviously support making sure employees are healthy and taken care of,” said Mark Bodenhamer, CEO of the Sonoma Valley Chamber of Commerce, which hasn't taken a formal position on the law. “We are generally concerned about the vast amount of cost and regulatory burden that the state of California puts on employers. It's an issue in a normal year and even more so now as we re-emerge from the economic damage brought on by COVID.”

Still, Bodenhamer agreed in the law's merits.

“This clearly is a well-intended law, and taken by itself, I wouldn't necessarily disagree with it. The issue is the cumulative impact of every well-intended law in California,” he said. “At some point, the cost of hiring in our state will outweigh the benefits, and businesses will choose other options like relocating, outsourcing or automation.”