



**WEST VALLEY WATER DISTRICT  
855 W. Base Line Road Rialto, CA**

**HUMAN RESOURCES COMMITTEE MEETING  
AGENDA**

**MONDAY, JANUARY 14, 2019 - 6:00 PM**

**NOTICE IS HEREBY GIVEN** that West Valley Water District has called a meeting of the Human Resources Committee to meet in the Administrative Conference Room, 855 W. Base Line Road, Rialto, CA 92376.

- 1. CONVENE MEETING**
- 2. PUBLIC PARTICIPATION**

*The public may address the Board on matters within its jurisdiction. Speakers are requested to keep their comments to no more than three (3) minutes. However, the Board of Directors is prohibited by State Law to take action on items not included on the printed agenda.*

- 3. DISCUSSION ITEMS**
  - a. Performance Evaluation Process for General Manager and Board Secretary
  - b. Property Program review conducted by ACWA/JPIA
  - c. 2019 New Laws Update.
- 4. ADJOURN**

**DECLARATION OF POSTING:**

**I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Human Resources Committee meeting agenda at the District offices on January 11, 2019.**

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Crystal L. Escalera, Board Secretary



**BOARD OF DIRECTORS  
HUMAN RESOURCES COMMITTEE  
STAFF REPORT**

**DATE:** January 14, 2019  
**TO:** Human Resources Committee  
**FROM:** Clarence Mansell Jr., Interim General Manager  
**SUBJECT:** 2019 NEW LAWS UPDATE

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**BACKGROUND:**

With the New Year also brings new California statutes for the West Valley Water District. Perhaps the most significant new law affecting the District policies and practices is Senate Bill 1343, which changes the requirements around sexual harassment prevention training. As of January 1, 2019, all employers with five (5) or more employees are now required to provide two hours of sexual harassment prevention training to supervisors and one hour to non-supervisory employees within six months, and every two years thereafter.

**DISCUSSION:**

Under this new law, all employees must complete their training before January 1, 2020 and the Department of Fair Employment and Housing (FEHA) determined that this means training must be done during the 2019 calendar year. This would include supervisors trained in 2018 to be re-trained in 2019. New hires must receive training within 30 days or 100 hours worked. The West Valley Water District will begin utilizing resources provided by ACWA JPIA to meet this requirement and other stipulated for 2019 as presented by ACWA JPIA (**Exhibit A**)

**FISCAL IMPACT:**

None at this time

**STAFF RECOMMENDATION:**

Receive and File

Respectfully Submitted,

A handwritten signature in blue ink that reads "Clarence C. Mansell Jr." is positioned above a horizontal line.

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Clarence Mansell Jr., Interim General Manager

DM:CE

**ATTACHMENT(S):**

1. New Laws for 2019 HANDOUTS

# EXHIBIT A



# New Laws for 2019



By  
Robert Greenfield  
ACWA JPIA General Counsel

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## What's ahead

- New California statutes
- Case law
- More food trucks




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## New Statutes for 2019

- No Keeping Secrets
- Training requirements
- Background checks
- FEHA changes




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### New Statutes – No Keeping Secrets AB3109



- Prohibits settlement or contract provisions that waive a party's right to testify in a proceeding concerning alleged sexual harassment or alleged criminal conduct.




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### New Statutes – No Keeping Secrets SB 820



- Prohibits a non-disclosure provision in a settlement agreement involving allegations of sexual assault, sexual harassment, or workplace harassment or discrimination based on sex.




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### New Statutes – Training SB1343



- All employers with five or more employees:
  - Train supervisory and non-supervisory employees by January 1, 2020.
  - Every employee must be trained within 30 calendar days after the hire date or within 100 hours worked, whichever is first, starting January 1, 2020.

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### New Statutes – Background Checks SB1412



- Cannot seek information on arrest that did not result in conviction OR under jurisdiction of juvenile court




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### SB 1412 Con't



- Employer can seek no information:
  - Concerning a referral to and participation in any pretrial or post trial diversion program
  - Concerning a conviction that has been judicially dismissed or ordered sealed.
- Employer can seek information:
  - Concerning juvenile arrest if resulted in conviction in last 5 years.

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### New Statutes – Breastfeeding AB1976



- Must provide a reasonable amount of break time to accommodate employees who are breastfeeding
- Must make reasonable efforts to provide the room or other location, other than a toilet stall, in close proximity to the employee's work area.

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### New Statutes – FEHA Changes SB1300



- Employer prohibited from requiring release of rights under FEHA in exchange for money, continued employment, etc.
- No agreement can be made to not disclose information regarding unlawful acts.




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### SB 1300 Con't



- Lowers the standard for proving harassment
- Plaintiff does not need to show that their productivity declined due to the harassment
- Sufficient to show a reasonable person subjected to the same conduct would find the harassment altered the plaintiff's working conditions
- Made it more difficult to do the job.




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### SB 1300 Even More!



A single incident of harassing conduct is sufficient to show that the matter should be tried in court if:

- It unreasonably interfered with performance
- Created an intimidating, hostile, or offensive work environment.

Isolated remarks viewed in light of other circumstances can be relevant and circumstantial evidence of severe and pervasive conduct.

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### SB 1300 - Last One



- Allows for, but does not require:
  - Employers to provide training to help bystanders recognize potentially problematic behaviors.
  - Motivate them to take action when they observe such behaviors.




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### Case Law



- *Dynamex v Superior Court*
- California Supreme Court held a new test to determine employee or independent contractor. Employment relationship is presumed unless the employer proves ALL of the following:
  - Does not control or direct the manner in which the work is performed
  - Work is outside the usual course of the employers business
  - The worker is customarily engaged in an independently established trade, occupation, or business in the same line of work performed.

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### Case Law



*Sander et al v State Bar of California*

- Public agencies do not have to create records in response to PRA requests.
- Government agency is required to produce non exempt responsive computer records
- But it cannot be required to create a new record by changing the substantive content of an existing record or replacing existing data with new data.
- Requestor may only receive the data as it exists not ask for new reports to be generated.

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### Case Law



Troester v Starbucks

- The law does not require employees to routinely work for minutes off the clock without compensation.
- De minimis may include activities that are so irregular or brief in duration that employers may not be reasonably required to compensate the employees for the time spent.




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### EEOC v BNSF Ry. Co.



- Requiring job applicant to obtain and provide MRI examination as condition of employment violated ADA by discriminating on basis of perceived disability.
- During post offer med review, applicant disclosed prior back injury. He had no current limitations according to any doctor. Employer demanded he have an MRI at his own cost or deem he had rejected the job offer.

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### Reminder!



- Government Code 946.4 requires an entity to file a 53051 information statement with the Secretary of State and the County Clerk with all governing changes.
  - See Form NPSF-405 on Secretary of State website.

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## More Food



SB 946

- Prohibits local governments from banning sidewalk sales of food and other merchandise and require a licensing system if they want to regulate the practice.



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