

Appendix "B": Statutes

EXCERPTS FROM DIVISION 3.6 OF THE CALIFORNIA GOVERNMENT CODE:
"CLAIMS AND ACTIONS AGAINST PUBLIC ENTITIES"

PART 3. CLAIMS AGAINST PUBLIC ENTITIES

Chapter 1. General

Article 1. Definitions

§900. Definitions Govern Construction of Part.

Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§900.2. "Board."

"Board" means:

- (a) In the case of a local public entity, the governing body of the local public entity.
- (b) In the case of the State, the State Board of Control. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§900.3. "Judicial Branch Entity"

A "judicial branch entity" is a public entity and means any superior court, court of appeals, the Supreme Court, the Judicial Council, or the Administrative Office of the Courts.

§900.4. "Local Public Entity."

"Local public entity" includes a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State, but does not include the State. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§900.6. "State."

"State" means the State and any office, officer, department, division, bureau, board, commission or agency of the State claims against which are paid by warrants drawn by the Controller. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§901. Date of Accrual of Cause of Action.

For the purpose of computing the time limits prescribed by Sections 911.2, 911.4, 912, and 945.6, the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirement that a claim be presented to and be acted upon by the public entity before an action could be commenced thereon. However, the date upon

which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the complaint giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the public entity. Leg.H. (Amended by Stats. 1981, Ch. 856, Sec. 1.)

Article 2. General Provisions

§905. Claims for Money or Damages Against Local Public Entities.

There shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part all claims for money or damages against local public entities except:

- (a) Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee or charge or any portion thereof, or of any penalties, costs or charges related thereto.
- (b) Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers' or materialmen's liens.
- (c) Claims by public employees for fees, salaries, wages, mileage or other expenses and allowances.
- (d) Claims for which the workmen's compensation authorized by Division 4 (commencing with Section 3201) of the Labor Code is the exclusive remedy.
- (e) Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance.
- (f) Applications or claims for money or benefits under any public retirement or pension system.
- (g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.
- (h) Claims which relate to a special assessment constituting a specific lien against the property assessed and which are payable from the proceeds of such an assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it.
- (i) Claims by the State or by a state department or agency or by another local public entity.
- (j) Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.
- (k) Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code.
- (L) Claims governed by the Pedestrian Mall Law of 1960, Part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§905.1. Claim for Taking of or Damage to Private Property.

No claim is required to be filed to maintain an action against a public entity for taking of, or damage to, private property pursuant to Section 19 of Article I of the California Constitution.

However, the board shall, in accordance with the provisions of this part, process any claim which is filed against a public entity for the taking of, or damage to, private property pursuant to Section 19 of Article I of the California Constitution. Leg.H. (Added by Stats. 1976, Ch. 96.)

[§§905.2-905.6 pertaining to state, school district asbestos, and University of California claims omitted.]

§905.8. Part Does Not Impose Liability on Public Entity Unless Liability Already Exists.

Nothing in this part imposes liability upon a public entity unless such liability otherwise exists. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§906. Amount Allowed on Claim.

(a) As used in this section, "amount allowed on the claim" means the amount allowed by the public entity on a claim allowed in whole or in part or the amount offered by the public entity to settle or compromise a claim.

(b) Except as provided in subdivision (c):

(1) No interest is payable on the amount allowed on the claim if payment of the claim is subject to approval of an appropriation by the Legislature; but, if an appropriation is made for the payment of a claim described in this paragraph, interest on the amount appropriated for the payment of the claim commences to accrue 30 days after the effective date of the law by which the appropriation is enacted.

(2) Interest on the amount allowed on the claim, other than a claim described in paragraph (1), commences to accrue 30 days after the claimant accepts in writing the amount allowed on the claim in settlement of the entire claim.

(3) Interest on the amount allowed on the claim accrues at the rate provided for judgments until paid.

(c) The public entity and the claimant may agree in writing to vary the terms prescribed by subdivision (b), including but not limited to, any one or more of the following:

(1) An agreement that no interest will be payable on the amount allowed on the claim.

(2) An agreement that interest on the amount allowed on the claim will commence to accrue at a time other than the time specified in paragraph (1) or (2) of subdivision (b).

(3) An agreement that interest on the amount allowed on the claim will accrue at a different rate than is specified in paragraph (3) of subdivision (b).

(d) The public entity may allow a claim in whole or in part, or may offer to settle or compromise a claim, upon the condition that the claimant agree in writing to a provision that varies the terms prescribed in subdivision (b). The acceptance by the claimant in writing of the amount allowed on the claim in settlement of the entire claim subject to such condition creates a written agreement that satisfies the requirements of subdivision (c).

(e) Nothing in this section limits the rights of a claimant to interest on a judgment obtained against a public entity. Leg.H. (Added by Stats. 1980, Ch. 215.)

§907. Offsets.

A local public entity, as defined in Section 900.4, may offset any delinquent amount due it for services rendered to any other local public entity. The offset may be charged, against any amount reciprocally owing, upon the giving of 30 days advance written notice, if no written dispute is received from the debtor within the 30-day notice period. Notices from the creditor or the debtor shall be made through certified mail.

If the offset would result in the debtor's inability to meet encumbered bonded indebtedness repayments, the debtor shall so state in a written dispute within the time period stated above.

If a dispute notice is received and the dispute is subsequently resolved in favor of the entity to whom an amount is due, interest on the principal amount from the date that amount was originally owing shall be assessed at the legal rate per annum established pursuant to Section 685.010 of the Code of Civil Procedure.

For purposes of this section, an amount reciprocally owing includes any tax revenue collected by a local public entity for disbursement to another local public entity. Leg.H. (Added by Stats. 1990, Ch. 697, Sec. 1.)

Chapter 2. Presentation and Consideration of Claims

Article 1. General

§910. Content of Claim.

A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

- (a) The name and post office address of the claimant.
- (b) The post office address to which the person presenting the claim desires notices to be sent.
- (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
- (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.

(e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.

(f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. Leg.H. (Amended by Stats.1965, c. 653; Stats.1987, c. 1201, § 17; Stats.1987, c. 1208, § 2; Stats.1998, c. 931, § 174, eff. Sept. 28, 1998.)

§910.2. Signature on Claim.

The claim shall be signed by the claimant or by some person on his behalf. Claims against local public entities for supplies, materials, equipment or services need not be signed by the claimant or on his behalf if presented on a billhead or invoice regularly used in the conduct of the business of the claimant. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§910.4. Forms Specifying Information Contained in Claims.

The board shall provide forms specifying the information to be contained in claims against the state. The person presenting a claim shall use the form in order that his or her claim is deemed in conformity with Sections 910 and 910.2. A claim may be returned to the person if it was not presented using the form. Any claim returned to a person may be resubmitted using the appropriate form. Leg.H. (Amended by Stats. 1965, Ch. 653; 2002, Ch. 1124; 2004, Ch. 227, effective August 16, 2004.)

§910.6. Amendment of Claim.

(a) A claim may be amended at any time before the expiration of the period designated in Section 911.2 or before final action thereon is taken by the board, whichever is later, if the claim as amended relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

(b) A failure or refusal to amend a claim, whether or not notice of insufficiency is given under Section 910.8, shall not constitute a defense to any action brought upon the cause of action for which the claim was presented if the court finds that the claim as presented complied substantially with Sections 910 and 910.2 or a form provided under Section 910.4. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§910.8. Failure of Claim to Comply With Section Requirements; Notice of Insufficiency.

If in the opinion of the board or the person designated by it a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, or if the claim is submitted

without a filing fee when required pursuant to subdivision (b) of Section 905.2, the board or the person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. The notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after the notice is given. Leg.H. (Amended by Stats. 1970, Ch. 104; 2004, Ch. 227, effective August 16, 2004.)

§911. Failure to Give Notice of Insufficiency; Claim Failing to State Address.

Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency with respect to the defect or omission as provided in Section 910.8, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant, or fails to include the filing fee. Leg.H. (Added by Stats. 1963, Ch. 1715; amended by Stats. 2004, ch. 227, effective August 16, 2004.)

§911.2. Claim Relating to Death or Injury to Person, Personal Property, or Growing Crops.

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action. Leg.H. (Amended by Stats. 1987, Ch. 1208, Sec. 3.)

§911.3. Notice of Claim Not Timely Filed.

(a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

(b) Any defense as to the time limit for presenting a claim described in subdivision (a) is waived by failure to give the notice set forth in subdivision (a) within 45 days after the claim is presented, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant. Leg.H. (Amended by Stats. 1987, Ch. 1208, Sec. 4.)

§911.4. Written Application for Leave to Present Claim.

(a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.

(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application.

(c) In computing the one-year period under subdivision (b), the following shall apply:

(1) The time during which the person who sustained the alleged injury, damage, or loss as a minor shall be counted, but the time during which he or she is mentally incapacitated and does not have a guardian or conservator of his or her person shall not be counted.

(2) The time shall not be counted during which the person is detained or adjudged to be a dependent child of the juvenile court under the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code), if both of the following conditions exist:

(A) The person is in the custody and control of an agency of the public entity to which a claim is to be presented.

(B) The public entity or its agency having custody and control of the minor is required by statute or other law to make a report of injury, abuse, or neglect to either the juvenile court or the minor's attorney, and that entity or its agency fails to make this report within the time required by the statute or other enactment, with this time period to commence on the date on which the public entity or its agency becomes aware of the injury, neglect, or abuse. In circumstances where the public entity or its agency makes a late report, the claim period shall be tolled for the period of the delay caused by the failure to make a timely report.

(3) The time shall not be counted during which a minor is adjudged to be a dependent child of the

juvenile court under the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code), if the minor is without a guardian ad litem or conservator for purposes of filing civil actions. Leg. H. (Amended by Stats. 1963 ch. 653, 1970 ch. 411, 1987 chs. 1201, 1208, 1999 ch. 620, 2003 ch. 847.)

§911.6. Grant or Denial of Application.

(a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement. Leg.H. (Amended by Stats. 1987, Ch. 1208, Sec. 6.)

§911.8. Written Notice of Board's Action.

(a) Written notice of the board's action upon the application shall be given in the manner prescribed by Section 915.4.

(b) If the application is denied, the notice shall include a warning in substantially the following form:

"WARNING

"If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately." Leg.H. (Amended by Stats. 1974, Ch. 620.)

§912.2. Effective Date of Granted Application.

If an application for leave to present a claim is granted by the board pursuant to Section 911.6, the claim shall be deemed to have been presented to the board upon the day that leave to present the claim is granted. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§912.4. Time Limit for Action on Claim; Extension.

(a) The board shall act on a claim in the manner provided in Section 912.6, 912.7, or 912.8 within 45 days after the claim has been presented. If a claim is amended, the board shall act on the amended claim within 45 days after the amended claim is presented.

(b) The claimant and the board may extend the period within which the board is required to act on the claim by written agreement made either:

(1) Before the expiration of the period.

(2) After the expiration of the period if an action based on the claim has not been commenced and is not yet barred by the period of limitations provided in Section 945.6.

(c) If the board fails or refuses to act on a claim within the time prescribed by this section, the claim shall be deemed to have been rejected by the board on the last day of the period within which the board was required to act upon the claim. If the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period within which the board is required to act shall be the last day of the period specified in the agreement.

Leg.H. (Amended by Stats. 1965, Ch. 653, 2002, Ch. 1007.)

§912.6. Board's Action on Claim Against Local Public Entity.

(a) In the case of a claim against a local public entity, the board may act on a claim in one of the following ways:

(1) If the board finds the claim is not a proper charge against the public entity, it shall reject the

claim.

(2) If the board finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim.

(3) If the board finds the claim is a proper charge against the public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance.

(4) If legal liability of the public entity or the amount justly due is disputed, the board may reject the claim or may compromise the claim.

(b) In the case of a claim against a local public entity, if the board allows the claim in whole or in part or compromises the claim, it may require the claimant, if the claimant accepts the amount allowed or offered to settle the claim, to accept it in settlement of the entire claim.

(c) Subject to subdivision (b), the local public entity shall pay the amount allowed on the claim or in compromise of the claim in the same manner as if the claimant had obtained a final judgment against the local public entity for that amount, but the claim may be paid in not exceeding 10 equal annual installments as provided in Section 970.6 only if the claimant agrees in writing to that method of payment and in such case no court order authorizing installment payments is required. If an agreement for payment of the claim in installments is made, the local public entity, in its discretion, may prepay any one or more installments or any part of an installment. Leg.H. (Amended by Stats. 1980, Ch. 215.)

[§§912.7 and 912.8, pertaining to actions against judges and state, omitted.]

§913. Written Notice of Action.

(a) Written notice of the action taken under Section 912.6, 912.7, or 912.8 or the inaction which is deemed rejection under Section 912.4 shall be given in the manner prescribed by Section 915.4. The notice may be in substantially the following form:

“Notice is hereby given that the claim which you presented to the (insert title of board or officer) on (indicate date) was (indicate whether rejected, allowed, allowed in the amount of \$___ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable) on (indicate date of action or rejection by operation of law).”

(b) If the claim is rejected in whole or in part, the notice required by subdivision (a) shall include a warning in substantially the following form:

“WARNING

“Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

“You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.” Leg.H. (Amended Stats. 1970, Ch. 104; 2002, Ch. 1007.)

Article 2. Manner of Presentation and of Giving Notice

§915. Presentation of Claim to Local Public Entity.

(a) A claim, any amendment thereto, or an application to the public entity for leave to present a late claim shall be presented to a local public entity by either of the following means:

(1) Delivering it to the clerk, secretary or auditor thereof.

(2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office.

(b) Except as provided in subdivision (c), a claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the state by either of the following means:

(1) Delivering it to an office of the Victim Compensation and Government Claims Board.

(2) Mailing it to the Victim Compensation and Government Claims Board at its principal office.

(c) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to a judicial branch entity in accordance with the following means:

(1) Delivering or mailing it to the court executive officer, if against a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of that court.

(2) Delivering or mailing it to the clerk/administrator of the court of appeals, if against a court of appeals or a judge of that court.

(3) Delivering or mailing it to the Clerk of the Supreme Court, if against the Supreme Court or a

judge of that court.

(4) Delivering or mailing it to the Secretariat of the Judicial Council, if against the Judicial Council or the Administrative Office of the Courts.

(d) A claim, amendment or application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if it is actually received by the clerk, secretary, auditor or board of the local public entity, is actually received at an office of the Victim Compensation and Government Claims Board, or, if against a judicial branch entity or judge, it is actually received by the court executive officer, court clerk/administrator, court clerk, or secretariat of the judicial branch entity, within the time prescribed for presentation thereof.

(e) A claim, amendment or application shall be deemed to have been presented in compliance with this section to a public agency as defined in Section 53050 if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to that public agency which is on file at the time the claim, amendment or application is delivered or mailed. As used in this subdivision, "statement in the Roster of Public Agencies" means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which the statement or amended statement is on file. Leg.H. (Amended by Stats. 1965, Ch. 653; 2002, Ch. 1007.)

§915.2. Mailing of Claim.

If a claim, amendment to a claim, or application to a public entity for leave to present a late claim is presented or sent by mail under this chapter, or if any notice under this chapter is given by mail, the claim, amendment, application, or notice shall be mailed in the manner prescribed in this section. The claim, amendment, application or notice shall be deposited in the United States post office, a mailbox, sub-post office, substation, mail chute, or other similar facility regularly maintained by the government of the United States, in a sealed envelope, properly addressed, with postage paid. The claim, amendment, application, or notice shall be deemed to have been presented and received at the time of the deposit. Any period of notice and any duty to respond after receipt of service of a claim, amendment, application, or notice is extended five days upon service by mail, if the place of address is within the State of California, 10 days if the place of address is within the United States, and 20 days if the place of address is outside the United States. Proof of mailing may be made in the manner prescribed by Section 1013a of the Code of Civil Procedure. Leg.H. (Amended by Stats. 2002, Ch. 1124, effective September 30, 2002.)

§915.4. Methods of Giving Notice.

(a) The notices provided for in Sections 910.8, 911.8, and 913 shall be given by either of the following methods:

(1) Personally delivering the notice to the person presenting the claim or making the application.

(2) Mailing the notice to the address, if any, stated in the claim or application as the address to which the person presenting the claim or making the application desires notices to be sent or, if no such address is stated in the claim or application, by mailing the notice to the address, if any, of the claimant as stated in the claim or application.

(b) No notice need be given where the claim or application fails to state either an address to which the person presenting the claim or making the application desires notices to be sent or an address of the claimant. Leg.H. (Added by Stats. 1970, Ch. 104.)

[§§920-926.18 and 930, pertaining to claims against the state, omitted.]

Chapter 5. Claims Procedures Established by Agreement

[§§926.18 and 930 pertaining to the state omitted.]

§930.2. Provisions Governing Body of Local Public Entity May Include in Written Agreement.

The governing body of a local public entity may include in any written agreement to which the entity, its governing body, or any board or employee thereof in an official capacity is a party, provisions governing the presentation, by or on behalf of any party thereto, of any or all claims arising out of or related to the agreement and the consideration and payment of such claims. The written agreement may incorporate by reference claim provisions set forth in a specifically identified ordinance or resolution theretofore adopted by the governing body. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§930.4. Agreed-Upon Claims Procedure Governs Claims; Exception.

A claims procedure established by agreement made pursuant to Section 930 or Section 930.2 exclusively governs the claims to which it relates, except that if the procedure so prescribed requires a claim to be presented within a period of less than one year after the accrual of the cause of action and such claim is not presented within the required time, an application may be made to the public entity for leave to present such claim. Subdivision (b) of Section 911.4, Sections 911.6 to 912.2, inclusive, and Section 946.6 are applicable to all such claims, and the time specified in the agreement shall be deemed the "time specified in Section 911.2" within the meaning of Sections 911.6 and 946.6. Leg.H. (Added by Stats. 1965, Ch. 653.)

§930.6. Claims Procedure May Include Requirement That Claim Be Presented and Acted Upon As Prerequisite to Suit.

A claims procedure established by agreement made pursuant to Section 930 or Section 930.2 may include a requirement that a claim be presented and acted upon as a prerequisite to suit thereon. If such requirement is included, any action brought against the public entity on the claim shall be subject to the provisions of Section 945.6 and Section 946. Leg.H. (Added by Stats. 1965, Ch. 653.)

Chapter 6. Claims Procedures Established by Public Entities

§935. Claims Governed by Procedure Described in Charter, Ordinance, or Regulation Adopted by Local Public Entity; Limitations.

(a) Claims against a local public entity for money or damages which are excepted by Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part, and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedure prescribed in any charter, ordinance or regulation adopted by the local public entity.

(b) The procedure so prescribed may include a requirement that a claim be presented and acted upon as a prerequisite to suit thereon. If such requirement is included, any action brought against the public entity on the claim shall be subject to the provisions of Section 945.6 and Section 946.

(c) The procedure so prescribed may not require a shorter time for presentation of any claim than the time provided in Section 911.2.

(d) The procedure so prescribed may not provide a longer time for the board to take action upon any claim than the time provided in Section 912.4.

(e) When a claim required by the procedure to be presented within a period of less than one year after the accrual of the cause of action is not presented within the required time, an application may be made to the public entity for leave to present such claim. Subdivision (b) of Section 911.4, Sections 911.6 to 912. 2, inclusive, and Sections 946.4 and 946.6 are applicable to all such claims, and the time specified in the charter, ordinance or regulation shall be deemed the "time specified in Section 911.2" within the meaning of Sections 911.6 and 946.6. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§935.2. Establishment of Claims Board or Commission.

A charter provision, or a local public entity by ordinance or resolution, may establish a claims board or commission of not less than three members to perform such functions of the governing body of the public entity under this part as are prescribed by the local public entity. A charter provision, ordinance or resolution may provide that, upon the written order of the claims board or commission, the auditor or other fiscal officer of the local public entity shall cause a warrant to be drawn upon the treasury of the local public entity in the amount for which a claim has been allowed or compromised or settled. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§935.4. Authorization of Employee of Local Public Entity to Perform Functions of Governing Body.

A charter provision, or a local public entity by ordinance or resolution, may authorize an employee of the local public entity to perform those functions of the governing body of the public entity under this part that are prescribed by the local public entity, but only a charter provision may authorize that employee to allow, compromise, or settle a claim against the local public entity if the amount to be paid pursuant to the allowance, compromise or settlement exceeds fifty thousand dollars (\$50,000). A charter provision, ordinance, or resolution may provide that, upon the written order of that employee, the auditor or other fiscal officer of the local public entity shall cause a warrant to be issued upon the treasury of the local public entity in the amount for which a claim has been allowed, compromised, or settled. Leg.H. (Amended by Stats. 1989, Ch. 159, Sec. 1.)

[§§935.6 - 935.8, pertaining to actions against judges and the state, omitted.]

PART 4. ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC EMPLOYEES

Chapter 1. General

Article 1. Definitions

§940. Definitions Govern Construction of Part.

Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§940.2. "Board."

"Board" means:

- (a) In the case of a local public entity, the governing body of the local public entity.
- (b) In the case of the state, except as provided by subdivision (c), the Victim Compensation and Government Claims Board.
- (c) In the case of a judicial branch entity or a judge thereof, the Judicial Council. Leg. H. (Amended by Stats. 2002, Ch. 1007.)

[§940.3 dealing with claims against courts omitted.]

§940.4. "Local Public Entity."

"Local public entity" includes a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State, but does not include the State. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§940.6. "State."

"State" means the State and any office, officer, department, division, bureau, board, commission or agency of the State claims against which are paid by warrants drawn by the Controller. Leg.H. (Added by Stats. 1963, Ch. 1715.)

Article 2. Construction

§942. Right of Claimant to Resort to Writ of Mandate or Other Proceeding.

Nothing in this division shall be construed to deprive a claimant of the right to resort to writ of mandate or other proceeding against the public entity or the board or any employee of the public entity to compel payment of a claim when and to the extent that it has been allowed and is required by this division to be paid. Leg.H. (Amended by Stats. 1980, Ch. 215.)

§943. Regents of University of California Exempt.

This part does not apply to claims or actions against the Regents of the University of California nor to claims or actions against an employee or former employee of the Regents of the University of California arising out of such employment. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§944. Liability Not Imposed Unless Already Existing.

Nothing in this part imposes liability upon a public entity unless such liability otherwise exists. Leg.H. (Added by Stats. 1963, Ch. 1715.)

Chapter 2. Actions Against Public Entities

§945. Public Entity May Sue and Be Sued.

A public entity may sue and be sued. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§945.2. Rules of Practice in Civil Actions Apply.

Except as otherwise provided by law, the rules of practice in civil actions apply to actions brought against public entities. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§945.3. Civil Action May Not Be Brought Against Peace Officer When Criminal Charges Pending.

No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a justice, municipal, or superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a justice, municipal, or superior court.

For the purposes of this section, charges pending before a justice, municipal, or superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2. Leg.H. (Amended by Stats. 1983, Ch. 272, Sec. 1.)

§945.4. Suit for Money or Damages Prohibited Until Required Claim Presented to Public Entity and Acted Upon.

Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§945.6. Time Limits Within Which Suit May Be Brought.

(a) Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced:

(1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail.

(2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. If the period within which the public entity is required to act is extended pursuant to subdivision (b) of Section 912.4, the period of such extension is not part of the time limited for the commencement of the action under this paragraph.

(b) When a person is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he has been sentenced to imprisonment in a state prison, the time limit for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public entity establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (a).

(c) A person sentenced to imprisonment in a state prison may not commence a suit on a cause of action described in subdivision (a) unless he presented a claim in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division. Leg.H. (Amended by Stats. 1971, Ch. 438.)

§945.8. Statute of Limitations.

Except where a different statute of limitations is specifically applicable to the public entity, and except as provided in Sections 930.6 and 935, any action against a public entity upon a cause of action for which a claim is not required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§946. Consequences of Action Taken on Presented Claim.

Where a claim that is required to be presented to a public entity in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division is so presented and action thereon is taken by the board:

(a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

(b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.

(c) If the claim is allowed in part, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the board to such effect, the claimant has accepted the amount allowed in settlement of the entire claim. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§946.4. When Failure to Present Claim as Required Does Not Bar Suit.

(a) Where provision is made by or pursuant to law that no suit may be brought against a public agency as defined in Section 53050 unless and until a claim is presented to the agency, the failure to present a claim does not constitute a bar or defense to the maintenance of a suit against such public agency if, during the 70 days immediately following the accrual of the cause of action:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, as required by Section 53051; or

(2) A statement or amended statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, but the information contained therein is so inaccurate or incomplete that it does not substantially conform to the requirements of Section 53051.

(b) On any question of fact arising within the scope of paragraphs (1) and (2) of subdivision (a), the burden of proof is upon the public agency.

(c) This section is inapplicable where the presentation of a claim is required by a claims procedure established by agreement made pursuant to Section 930.2 unless the procedure so prescribed requires that the claim be presented to the governing body of the public agency or to a person listed in Section 53051. Leg.H. (Added by Stats. 1965, Ch. 653.)

§946.6. Order Relieving Petitioner From Section 945.4.

(a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. If the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court. If an action on the cause of action to which the claim relates would be a limited civil case, a proceeding pursuant to this section is a limited civil case.

(b) The petition shall show each of the following:

(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

(3) The information required by Section 910.

The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state. If the petition involves a claim arising out of alleged actions or inactions of the Department of Transportation, service of the petition and notice of the hearing shall be made on the Attorney General or the Director of Transportation. Service on the Attorney General may be accomplished at any of the Attorney General's offices in Los Angeles, Sacramento, San Diego, or San Francisco. Service on the Director of Transportation may be accomplished only at the Department of Transportation's headquarters office in Sacramento. If the petition involves a claim arising out of alleged actions or inactions of a judicial branch entity, service of the petition and notice of the hearing shall be made in accordance with the following:

(1) If the petition involves a claim arising out of alleged actions or inactions of a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of the court, service shall be made on the court executive officer.

(2) If the petition involves a claim arising out of alleged actions or inactions of a court of appeals or a judge thereof, service shall be made on the Clerk/Administrator of the court of appeals.

(3) If the petition involves a claim arising out of alleged actions or inactions of the Supreme Court or a judge thereof, service shall be made on the Clerk of the Supreme Court.

(4) If the petition involves a claim arising out of alleged actions or inactions of the Judicial Council or the Administrative Office of the Courts, service shall be made on the secretariat of the Judicial Council.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from Section 945. 4, suit on the cause of action to which the claim relates shall be filed with the court within 30 days thereafter. Leg.H. (Amended by Stats. 1989, Ch. 693; 1970, Ch. 411, 1987, Chs. 1201, 1208; 1989, Chs. 148, 693; 2001, Ch. 44; 2002, Ch. 1007.)

[§948 pertaining to state omitted.]

§949. Delegation of Authority.

The governing body of a local public entity may compromise, or may delegate the authority to its attorney or an employee to compromise, any pending action. Leg.H. (Added by Stats. 1963, Ch. 1715.)

Chapter 3. Actions Against Public Employees

§950. Claim Need Not Be Presented as Prerequisite to Maintenance of Action.

Except as otherwise provided in this chapter, a claim need not be presented as a prerequisite to the maintenance of an action against a public employee or former public employee for injury resulting from an act or omission in the scope of his employment as a public employee. Leg.H. (Added by Stats. 1963, Ch. 1715.)

§950.2. Cause of Action Against Public Employee Barred if Barred Against Employing Public Entity.

Except as provided in Section 950.4, a cause of action against a public employee or former public employee for injury resulting from an act or omission in the scope of his employment as a public employee is barred if an action against the employing public entity for such injury is barred under Part 3 (commencing with Section 900) of this division or under Chapter 2 (commencing with Section 945) of Part 4 of this division. This section is applicable even though the public entity is immune from liability for the injury. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§950.4. When Action Against Public Employee Not Barred.

A cause of action against a public employee or former public employee is not barred by Section

950.2 if the plaintiff pleads and proves that he did not know or have reason to know, within the period for the presentation of a claim to the employing public entity as a condition to maintaining an action for such injury against the employing public entity, as that period is prescribed by Section 911.2 or by such other claims procedure as may be applicable, that the injury was caused by an act or omission of the public entity or by an act or omission of an employee of the public entity in the scope of his employment as a public employee. Leg.H. (Amended by Stats. 1965, Ch. 653.)

§950.6. Procedure Subsequent to Presenting Written Claim for Money or Damages to Employing Public Entity.

When a written claim for money or damages for injury has been presented to the employing public entity:

(a) A cause of action for such injury may not be maintained against the public employee or former public employee whose act or omission caused such injury until the claim has been rejected, or has been deemed to have been rejected, in whole or in part by the public entity.

(b) A suit against the public employee or former public employee for such injury must be commenced within the time prescribed by Section 945.6 for bringing an action against the public entity.

(c) When a person is unable to commence the suit within the time prescribed in subdivision (b) because he has been sentenced to imprisonment in a state prison, the time limited for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public employee or former public employee establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (b). Leg.H. (Amended by Stats. 1970, Ch. 104.)

§950.8. Requirement of Presentation of Claim as Prerequisite to Maintenance of Action Against Public Employee to Enforce Personal Liability Invalid.

Any provision of a charter, ordinance or regulation heretofore or hereafter adopted by a local public entity which requires the presentation of a claim as a prerequisite to the maintenance of an action against a public employee to enforce his personal liability is invalid. Leg.H. (Added by Stats. 1963, Ch. 1715.)

[§951 pertaining to pleading requirements against public officers omitted.]

OTHER GOVERNMENT CODE SECTIONS

§ 7530. Public agency identification

All public agencies, public entities, districts, cities, counties, and cities and counties shall, when being identified by such entity for any purpose, be identified as a public agency, public entity, district, city, county, or city and county, whichever is appropriate.

The requirements of this section shall be deemed satisfied if the words "state," "public agency," "public entity," "district," "city," "county," or "city and county," whichever is appropriate, appears on all letterhead stationery of such public agency, public entity, district, city, county, or city and county, and on all identification cards used to identify a representative of a public agency, public entity, district, city, county, or city and county; provided, that this chapter is not intended to require the reprinting of letterhead stationery or identification cards and any public agency, public entity, district, city, county, or city and county shall have one year from the effective date of this chapter to use up old letterhead stationery and identification cards. The use by a school district of the name "_____ City Schools" shall satisfy the requirements of this section.

Notwithstanding any other provision of law, a written application for leave to present a claim pursuant to Section 911.4 shall be granted when it can be shown that the claimant acted with reasonable diligence in pursuing the claim and reasonably believed that the responsible entity was not a public agency by reason of its representations. Leg.H. (Amended by Stats., 1980, Ch. 1059.)

§ 53050. Public agency

The term "public agency," as used in this article, means a district, public authority, public agency, and any other political subdivision or public corporation in the state, but does not include the state or a county, city and county, or city. Leg.H. (Amended by Stats 1965, Ch. 653.)

§ 53051. Information concerning public agency and members of governing board

(a) Within seventy (70) days after the date of commencement of its legal existence, the governing body of each public agency shall file with the Secretary of State on a form prescribed by the Secretary of State and also with the county clerk of each county in which the public agency maintains an office, a statement of the following facts:

1. The full, legal name of the public agency.
2. The official mailing address of the governing body of the public agency.
3. The name and residence or business address of each member of the governing body of the public agency.
4. The name, title, and residence or business address of the chairman, president, or other presiding officer, and clerk or secretary of the governing body of such public agency.

(b) Within 10 days after any change in the facts required to be stated pursuant to subdivision (a), an amended statement containing the information required by subdivision (a) shall be filed as provided therein. The information submitted to the Secretary of State shall be on a form prescribed by the Secretary of State.

(c) It shall be the duty of the Secretary of State and of the county clerk of each county to establish and maintain an indexed "Roster of Public Agencies," to be so designated, which shall contain all information filed as required in subdivisions (a) and (b), which roster is hereby declared to be a public record. Leg.H. (Amended by Stats. 1965, Ch. 653; 1990, Ch. 210.)

CODE OF CIVIL PROCEDURE

§ 342. Actions against public entities

An action against a public entity upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code must be commenced within the time provided in Section 945.6 of the Government Code. Leg.H. (Added by Stats. 1963, Ch. 1715.)

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