

AMENDED IN SENATE APRIL 7, 2010

SENATE BILL

No. 1046

Introduced by Senator Cogdill

February 16, 2010

An act to amend Sections 811.2, 900.2, 913, 915, and 940.2 of, and to add Sections 905.9, 912.5, and 935.9 to, the Government Code, relating to government liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1046, as amended, Cogdill. Government tort claims: California State University.

Existing law bars a suit for money or damages against a public entity on a cause of action for which a claim is required to be presented, until a written claim therefor has been presented to the public entity and acted upon by the Victim Compensation and Government Claims Board, the governing body of a local public entity, or the Judicial Council, as applicable, or has been deemed to have been rejected, except as specified.

This bill would require, instead, in the case of a claim against the California State University for money or damages based upon an express contract or for an injury for which the Trustees of the California State University is liable, that the claim be presented to the Trustees of the California State University. The bill would require the trustees to act on the claim in accordance with the procedure that the trustees provide by rule. The bill would specify certain means of presentation and service of a claim against the California State University, *and would require the Victim Compensation and Government Claims Board to immediately notify a claimant who mistakenly presents a claim against the California State University to the Victim Compensation and Government Claims*

Board, as specified. The bill would authorize the trustees to adjust and pay any claim arising out of the activities of the California State University, and would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 811.2 of the Government Code is
2 amended to read:

3 811.2. “Public entity” includes the state, the Regents of the
4 University of California, the Trustees of the California State
5 University and the California State University, a county, city,
6 district, public authority, public agency, and any other political
7 subdivision or public corporation in the State.

8 SEC. 2. Section 900.2 of the Government Code is amended to
9 read:

10 900.2. “Board” means:

11 (a) In the case of a local public entity, the governing body of
12 the local public entity.

13 (b) In the case of the state, except as provided by subdivisions
14 (c) and (d), the Victim Compensation and Government Claims
15 Board.

16 (c) In the case of a judicial branch entity or judge of one of those
17 entities, the Judicial Council.

18 (d) In the case of the California State University, the Trustees
19 of the California State University.

20 SEC. 3. Section 905.9 is added to the Government Code, to
21 read:

22 905.9. All claims against the California State University for
23 money or damages based upon an express contract or for an injury
24 for which the Trustees of the California State University is liable
25 shall be presented in accordance with Chapter 1 (commencing
26 with Section 900) and Chapter 2 (commencing with Section 910)
27 of this part.

28 SEC. 4. Section 912.5 is added to the Government Code, to
29 read:

30 912.5. (a) The Trustees of the California State University shall
31 act on a claim against the California State University in accordance

1 with the procedure that the Trustees of the California State
2 University provides by rule.

*3 (b) Nothing in this section authorizes the Trustees of the
4 California State University to adopt any rule that is inconsistent
5 with this part.*

6 (c) If a claim for money or damages against the California State
7 University is mistakenly presented to the Victim Compensation
8 and Government Claims Board, the Victim Compensation and
9 Government Claims Board shall immediately notify the claimant
10 of the error and shall include information on proper filing of the
11 claim.

12 SEC. 5. Section 913 of the Government Code is amended to
13 read:

14 913. (a) Written notice of the action taken under Section 912.5,
15 912.6, 912.7, or 912.8 or the inaction that is deemed rejection
16 under Section 912.4 shall be given in the manner prescribed by
17 Section 915.4. The notice may be in substantially the following
18 form:

19 "Notice is hereby given that the claim that you presented to the
20 (insert title of board or officer) on (indicate date) was (indicate
21 whether rejected, allowed, allowed in the amount of \$____ and
22 rejected as to the balance, rejected by operation of law, or other
23 appropriate language, whichever is applicable) on (indicate date
24 of action or rejection by operation of law)."

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

“WARNING

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

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

37 SEC. 6. Section 915 of the Government Code is amended to
38 read:

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

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

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

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

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

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

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

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

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

23 (3) Delivering or mailing it to the Clerk of the Supreme Court,
24 if against the Supreme Court or a judge of that court.

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

28 (d) A claim, any amendment thereto, or an application for leave
29 to file a late claim shall be presented to the Trustees of the
30 California State University by delivering or mailing it to the Office
31 of Risk Management at the ~~Chaneellor's Office~~ *Office of the*
32 *Chancellor* of the California State University.

33 (e) A claim, amendment or application shall be deemed to have
34 been presented in compliance with this section even though it is
35 not delivered or mailed as provided in this section if ~~it~~, *within the*
36 *time prescribed for presentation thereof, any of the following apply:*

37 (1) *It* is actually received by the clerk, secretary, auditor or board
38 of the local public entity; *entity*.

39 (2) *It* is actually received at an office of the Victim
40 Compensation and Government Claims Board; *if Board*.

1 (3) *If* against the California State University, it is actually
2 received by the Trustees of the California State ~~University, or, if~~
3 ~~University.~~

4 (4) *If* against a judicial branch entity or judge, it is actually
5 received by the court executive officer, court clerk/administrator,
6 court clerk, or secretariat of the judicial branch entity, ~~within the~~
7 time prescribed for presentation thereof.

8 (f) A claim, amendment or application shall be deemed to have
9 been presented in compliance with this section to a public agency
10 as defined in Section 53050 if it is delivered or mailed within the
11 time prescribed for presentation thereof in conformity with the
12 information contained in the statement in the Roster of Public
13 Agencies pertaining to that public agency which is on file at the
14 time the claim, amendment or application is delivered or mailed.
15 As used in this subdivision, “statement in the Roster of Public
16 Agencies” means the statement or amended statement in the Roster
17 of Public Agencies in the office of the Secretary of State or in the
18 office of the county clerk of any county in which the statement or
19 amended statement is on file.

20 SEC. 7. Section 935.9 is added to the Government Code, to
21 read:

22 935.9. The Trustees of the California State University may
23 adjust and pay any claim arising out of the activities of the
24 California State University. The Trustees of the California State
25 University may, by rule, authorize the Office of Risk Management
26 at the Chancellor’s Office of the California State University to
27 perform the functions of the Trustees of the California State
28 University under this section.

29 SEC. 8. Section 940.2 of the Government Code is amended to
30 read:

31 940.2. “Board” means:

32 (a) In the case of a local public entity, the governing body of
33 the local public entity.

34 (b) In the case of the state, except as provided by subdivisions
35 (c) and (d), the Victim Compensation and Government Claims
36 Board.

37 (c) In the case of a judicial branch entity or a judge thereof, the
38 Judicial Council.

39 (d) In the case of the California State University, the Trustees
40 of the California State University.

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2 **CORRECTIONS:** _____
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