

AMENDED IN SENATE APRIL 17, 2012

SENATE BILL

No. 1504

Introduced by Senator Kehoe
(Principal coauthor: Assembly Member Fuentes)

February 24, 2012

An act to amend Sections 906, 965, and 965.5 of the Government Code, relating to governmental liability, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1504, as amended, Kehoe. Claims and judgments against the state: interest.

(1) 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 has been presented to the public entity and acted upon by the *California* Victim Compensation and Government Claims Board, the governing body of a local public entity, the Judicial Council, or the Trustees of the California State University, as applicable, or has been deemed to have been rejected, except as specified. Existing law provides that no interest is payable on the amount allowed by the public entity on the claim if payment of the claim is subject to approval of an appropriation by the Legislature. However, if the appropriation is made, 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. Interest on the amount allowed on the claim, if payment of the claim is not subject to approval of an appropriation by the Legislature, commences to accrue 30 days after the claimant accepts in writing the amount allowed on the claim in settlement of the entire claim. Existing law provides that interest accrues

at the rate provided for judgments until paid. Existing law permits these terms to be varied upon written agreement of the public entity and the claimant.

This bill, instead, would provide that no interest is payable on the amount allowed by the California Victim Compensation and Government Claims Board on the claim if payment of the claim is subject to approval of an appropriation by the Legislature. ~~If the Legislature fails to approve~~ *However, if an appropriation is made for the payment of a claim, interest would commence to accrue on the amount allowed by the board on appropriated for the payment of the claim at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but no more than 5% per annum, commencing one year from the date the claim was submitted by the board to the Legislature 180 days after the effective date of the act by which the appropriation is made.* The bill would delete the above-described provisions requiring the accrual of interest on the amount appropriated for the payment of a claim and on a claim that is not subject to approval of an appropriation by the Legislature, setting the rate of interest, and authorizing these terms to be varied by written agreement.

(2) Under existing law, if there is no sufficient appropriation for the payment of claims, settlements, or judgments against the state arising from an action in which the state is represented by the Attorney General, the Attorney General is required to report the claims, settlements, and judgments to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Budget, who shall cause to be introduced legislation appropriating funds for the payment of the claims, settlements, or judgments.

This bill would require that report to be made to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Appropriations. The bill would make other conforming changes.

(3) The California Constitution requires the Legislature to set the rate of interest upon a judgment rendered in any court of this state at not more than 10% per annum. Existing law provides that interest accrues at the rate of 10% per annum on the principal amount of a money judgment remaining unsatisfied. Under existing law, this provision does not apply to a judgment for the payment of money against the state. In the absence of the setting of such a rate by the Legislature,

the California Constitution provides that the rate of interest on any judgment rendered in a court is 7% per annum.

This bill would provide that interest shall *commence to* accrue on the amount of a judgment or settlement for the payment of money against the state ~~at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but no more than 5% per annum, commencing one year~~ 180 days from the date of the final judgment or settlement.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. 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 906 of the Government Code is amended
2 to read:

3 906. (a) As used in this section, “amount allowed on the claim”
4 means the amount allowed by the California Victim Compensation
5 and Government Claims Board on a claim allowed, in whole or in
6 part, or the amount offered by the board to settle or compromise
7 a claim.

8 (b) ~~No~~ *Except as otherwise provided in this subdivision, no*
9 *interest is payable on the amount allowed on the claim if payment*
10 *of the claim is subject to approval of an appropriation by the*
11 *Legislature. If the Legislature fails to approve an appropriation*
12 *for payment of a claim, interest shall accrue on the amount allowed*
13 *on the claim at no more than the average Pooled Money Investment*
14 *Account rate for the previous fiscal year, but no more than 5*
15 *percent per annum, commencing one year from the date the claim*
16 *was submitted by the board to the Legislature. If an appropriation*
17 *is made for the payment of a claim described in this subdivision,*
18 *interest on the amount appropriated for the payment of the claim*
19 *commences to accrue 180 days after the effective date of the act*
20 *by which the appropriation is enacted.*

21 SEC. 2. Section 965 of the Government Code is amended to
22 read:

23 965. (a) Upon the allowance by the California Victim
24 Compensation and Government Claims Board of all or part of a
25 claim for which the Director of Finance certifies that a sufficient

1 appropriation for the payment of the claim exists, and the execution
2 and presentation of documents the board may require that discharge
3 the state of all liability under the claim, the board shall designate
4 the fund from which the claim is to be paid, and the state agency
5 concerned shall pay the claim from that fund. If there is no
6 sufficient appropriation for the payment available, the board shall
7 report to the Legislature in accordance with Section 912.8. Claims
8 arising out of the activities of the State Department of
9 Transportation may be paid if either the Director of Transportation
10 or the Director of Finance certifies that a sufficient appropriation
11 for the payment of the claim exists.

12 (b) Notwithstanding subdivision (a), if there is no sufficient
13 appropriation for the payment of claims, settlements, or judgments
14 against the state arising from an action in which the state is
15 represented by the Attorney General, the Attorney General shall
16 report the claims, settlements, and judgments to the chairperson
17 of either the Senate Committee on Appropriations or the Assembly
18 Committee on Appropriations, who shall cause to be introduced
19 legislation appropriating funds for the payment of the claims,
20 settlements, or judgments.

21 (c) Notwithstanding subdivision (a) or (b), claims, settlements,
22 or judgments arising out of the activities of a judicial branch entity,
23 as defined by Sections 900.3 and 940.3, or a judge thereof may be
24 paid if the Judicial Council authorizes payment and the
25 Administrative Director of the Courts certifies that sufficient funds
26 for that payment exist from funds allocated to settlement,
27 adjustment, and compromise of actions and claims. If sufficient
28 funds for payment of settlements or judgments do not exist, the
29 Administrative Director of the Courts shall report the settlements
30 and judgments to the chairperson of either the Senate Committee
31 on Appropriations or the Assembly Committee on Appropriations,
32 who shall cause to be introduced legislation appropriating funds
33 for the payment of the settlements or judgments. If sufficient funds
34 for payment of claims do not exist, the Administrative Director of
35 the Courts shall report the claims to the California Victim
36 Compensation and Government Claims Board, which shall have
37 90 days to object to payment. The Administrative Director of the
38 Courts shall confer with the Chairperson of the California Victim
39 Compensation and Government Claims Board regarding any
40 objection received during the 90-day period. If the California

1 Victim Compensation and Government Claims Board withdraws
2 the objection, or if no objection was received, the Administrative
3 Director of the Courts shall report the claims to the chairperson of
4 either the Senate Committee on Appropriations or the Assembly
5 Committee on Appropriations, who shall cause to be introduced
6 legislation appropriating funds for the payment of the claims. The
7 Judicial Council may authorize any committee of the Judicial
8 Council or any employee of the Administrative Office of the Courts
9 to perform the functions of the Judicial Council under this section.
10 The Administrative Director of the Courts may designate an
11 executive staff member of the Administrative Office of the Courts
12 to perform the functions of the Administrative Director of the
13 Courts under this section.

14 SEC. 3. Section 965.5 of the Government Code is amended to
15 read:

16 965.5. (a) A judgment for the payment of money against the
17 state or a state agency is enforceable until 10 years after the time
18 the judgment becomes final or, if the judgment is payable in
19 installments, until 10 years after the final installment becomes due.

20 (b) A judgment for the payment of money against the state or
21 a state agency is not enforceable under Title 9 (commencing with
22 Section 680.010) of Part 2 of the Code of Civil Procedure, but is
23 enforceable under this chapter.

24 (c) Interest ~~shall accrue~~ on the amount of a judgment or
25 settlement for the payment of money against the state ~~at no more~~
26 ~~than the average Pooled Money Investment Account rate for the~~
27 ~~previous fiscal year, but no more than 5 percent per annum,~~
28 ~~commencing one year shall commence to accrue 180 days~~ from
29 the date of the final judgment or settlement. This subdivision does
30 not apply to any claim approved by the California Victim
31 Compensation and Government Claims Board.

32 SEC. 4. *This act is an urgency statute necessary for the*
33 *immediate preservation of the public peace, health, or safety within*
34 *the meaning of Article IV of the Constitution and shall go into*
35 *immediate effect. The facts constituting the necessity are:*

36 *In order for the provisions of this act to be applicable as soon*
37 *as possible for the 2012–13 fiscal year, and thereby facilitate the*

- 1 *orderly administration of state government at the earliest time*
- 2 *possible, it is necessary that this act take effect immediately.*

O