

**ASSEMBLY BILL**

**No. 748**

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**Introduced by Assembly Member Eggman**

February 21, 2013

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An act to amend Section 3291 of the Civil Code, and to amend Sections 906, 965.5, and 970.1 of the Government Code, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 748, as introduced, Eggman. Judgments against the state: interest.

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.

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. 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.

Existing law provides that no interest is payable on the amount allowed by the California Victim Compensation and Government Claims Board on a 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 180 days after the effective date of the law by which the appropriation is enacted.

Existing law requires the Treasurer to invest or make deposits in banks and savings and loan associations of revenues in the Pooled Money Investment Account in accordance with designations specified by the Pooled Money Investment Board.

This bill would provide that interest on the amount of a judgment or settlement for the payment of money against the state shall accrue on the amount allowed on the claim at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but not to exceed 7% per annum. The bill would provide that this accrual rate also applies to interest on the amount of a judgment for the payment of money against local public entities, except as otherwise provided by contract.

Existing law provides for a legal rate of interest of 10% per annum on civil judgments arising out of tort claims, as specified. Existing law does not permit interest to accrue on a judgment against a public entity or employee for an act or omission within the scope of employment.

This bill would provide that in any judgment against a public entity or employee not arising out of an act or omission within the scope of employment, interest may accrue at a rate not more than the average Pooled Money Investment Account rate for the previous fiscal year, but not to exceed 7% per annum.

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 3291 of the Civil Code is amended to  
2 read:

3 3291. (a) In any action brought to recover damages for  
4 personal injury sustained by any person resulting from or  
5 occasioned by the tort of any other person, corporation, association,  
6 or partnership, whether by negligence or by willful intent of the  
7 other person, corporation, association, or partnership, and whether  
8 the injury was fatal or otherwise, it is lawful for the plaintiff in the  
9 complaint to claim interest on the damages alleged as provided in  
10 this section.

11 If  
12 (b) If the plaintiff makes an offer pursuant to Section 998 of the  
13 Code of Civil Procedure which the defendant does not accept prior  
14 to trial or within 30 days, whichever occurs first, and the plaintiff

1 obtains a more favorable judgment, the judgment shall bear interest  
2 at the legal rate of 10 percent per annum calculated from the date  
3 of the plaintiff's first offer pursuant to Section 998 of the Code of  
4 Civil Procedure which is exceeded by the judgment, and interest  
5 shall accrue until the satisfaction of judgment.

6 ~~This~~

7 (c) *This section shall not apply to a public entity, or to a public*  
8 *employee for an act or omission within the scope of employment,*  
9 *and neither the public entity nor the public employee shall be liable,*  
10 *directly or indirectly, to any person for any interest imposed by*  
11 *this section.*

12 (d) *Notwithstanding subdivision (c), in any action against a*  
13 *public entity or public employee not excluded by this section that*  
14 *results in a judgment against the public entity or public employee,*  
15 *interest shall accrue on the amount allowed on the claim at no*  
16 *more than the average Pooled Money Investment Account rate for*  
17 *the previous fiscal year, but shall not exceed 7 percent per annum.*

18 SEC. 2. Section 906 of the Government Code is amended to  
19 read:

20 906. (a) As used in this section, "amount allowed on the claim"  
21 means the amount allowed by the California Victim Compensation  
22 and Government Claims Board on a claim allowed, in whole or in  
23 part, or the amount offered by the board to settle or compromise  
24 a claim.

25 (b) Except as otherwise provided in this subdivision, no interest  
26 is payable on the amount allowed on the claim if payment of the  
27 claim is subject to approval of an appropriation by the Legislature.  
28 If an appropriation is made for the payment of a claim described  
29 in this subdivision, interest on the amount appropriated for the  
30 payment of the claim commences to accrue 180 days after the  
31 effective date of the act by which the appropriation is enacted.

32 (c) *Interest shall accrue on the amount allowed on the claim at*  
33 *no more than the average Pooled Money Investment Account rate*  
34 *for the previous fiscal year, but shall not exceed 7 percent per*  
35 *annum.*

36 SEC. 3. Section 965.5 of the Government Code is amended to  
37 read:

38 965.5. (a) A judgment for the payment of money against the  
39 state or a state agency is enforceable until 10 years after the time

1 the judgment becomes final or, if the judgment is payable in  
2 installments, until 10 years after the final installment becomes due.

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

7 (c) Interest on the amount of a judgment or settlement for the  
8 payment of money against the state shall commence to accrue 180  
9 days from the date of the final judgment or settlement *and shall*  
10 *accrue on the amount allowed on the claim at no more than the*  
11 *average Pooled Money Investment Account rate for the previous*  
12 *fiscal year, but shall not exceed 7 percent per annum.* This  
13 subdivision does not apply to any claim approved by the California  
14 Victim Compensation and Government Claims Board.

15 SEC. 4. Section 970.1 of the Government Code is amended to  
16 read:

17 970.1. (a) A judgment is enforceable until 10 years after the  
18 time 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, whether or not final, is not enforceable under  
21 Title 9 (commencing with Section 680.010) of Part 2 of the Code  
22 of Civil Procedure but is enforceable under this article after it  
23 becomes final.

24 (c) *Except as otherwise provided by the contract, the interest*  
25 *shall accrue on the amount allowed on the claim at no more than*  
26 *the average Pooled Money Investment Account rate for the*  
27 *previous fiscal year, but shall not exceed 7 percent per annum.*