

AMENDED IN ASSEMBLY MAY 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**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 ~~3294~~ 3287 of the Civil Code, and to amend Sections ~~906, 965.5, 965.5~~ and 970.1 of the Government Code, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 748, as amended, 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.~~ *authorizes a person to collect interest on damages prior to entry of judgment in the action, including an action against a public entity, 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.

*This bill would provide that, unless another provision of law or a collective bargaining contract provides a different interest rate, interest accrues in a tax or inverse condemnation claim against a public entity that results in a judgment against the public entity at a rate equal to*

*the weekly average one year constant maturity United States Treasury yield, not to exceed 7% per annum. The bill would also provide that when the judgment becomes enforceable pursuant to existing law interest accrues at an annual rate equal to the weekly average one year constant maturity United States Treasury yield at the time of the judgment plus 2%.*

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.~~

*This bill would provide that, unless another provision of law or a collective bargaining contract provides a different interest rate, interest on a tax or inverse condemnation judgment or settlement for the payment of moneys against the state commences to accrue 180 days from the date of the final judgment or settlement and accrues at a rate equal to the weekly average one year constant maturity United States Treasury*

yield at the time of the judgment or settlement plus 2%, 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 3287 of the Civil Code is amended to  
2 read:

3     3287. (a) ~~Every~~A person who is entitled to recover damages  
4 certain, or capable of being made certain by calculation, and the  
5 right to recover which is vested in ~~him~~ *the person* upon a particular  
6 day, is entitled also to recover interest thereon from that day, except  
7 ~~during such time as~~ *when* the debtor is prevented by law, or by the  
8 act of the creditor from paying the debt. This section is applicable  
9 to recovery of damages and interest from any ~~such~~ debtor,  
10 including the state or any county, city, city and county, municipal  
11 corporation, public district, public agency, or any political  
12 subdivision of the state.

13     (b) Every person who is entitled under any judgment to receive  
14 damages based upon a cause of action in contract where the claim  
15 was unliquidated, may also recover interest thereon from a date  
16 prior to the entry of judgment as the court may, in its discretion,  
17 fix, but in no event earlier than the date the action was filed.

18     (c) *Unless another statute or a collective bargaining contract*  
19 *provides a different interest rate, in a tax or inverse condemnation*  
20 *claim against a public entity that results in a judgment against the*  
21 *public entity, interest shall accrue at a rate equal to the weekly*  
22 *average one year constant maturity United States Treasury yield,*  
23 *but shall not exceed 7 percent per annum. That rate shall control*  
24 *until the judgment becomes enforceable under Section 965.5 or*  
25 *970.1, at which time interest shall accrue at an annual rate equal*  
26 *to the weekly average one year constant maturity United States*  
27 *Treasury yield at the time of the judgment plus 2 percent.*

28     ~~SECTION 1. Section 3291 of the Civil Code is amended to~~  
29 ~~read:~~

30     ~~3291. (a) In any action brought to recover damages for personal~~  
31 ~~injury sustained by any person resulting from or occasioned by~~  
32 ~~the tort of any other person, corporation, association, or partnership,~~  
33 ~~whether by negligence or by willful intent of the other person,~~

1 corporation, association, or partnership, and whether the injury  
2 was fatal or otherwise, it is lawful for the plaintiff in the complaint  
3 to claim interest on the damages alleged as provided in this section.

4 (b) If the plaintiff makes an offer pursuant to Section 998 of the  
5 Code of Civil Procedure which the defendant does not accept prior  
6 to trial or within 30 days, whichever occurs first, and the plaintiff  
7 obtains a more favorable judgment, the judgment shall bear interest  
8 at the legal rate of 10 percent per annum calculated from the date  
9 of the plaintiff's first offer pursuant to Section 998 of the Code of  
10 Civil Procedure which is exceeded by the judgment, and interest  
11 shall accrue until the satisfaction of judgment.

12 (c) This section shall not apply to a public entity, or to a public  
13 employee for an act or omission within the scope of employment,  
14 and neither the public entity nor the public employee shall be liable,  
15 directly or indirectly, to any person for any interest imposed by  
16 this section.

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

23 SEC. 2. Section 906 of the Government Code is amended to  
24 read:

25 906. (a) As used in this section, "amount allowed on the claim"  
26 means the amount allowed by the California Victim Compensation  
27 and Government Claims Board on a claim allowed, in whole or in  
28 part, or the amount offered by the board to settle or compromise  
29 a claim.

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

37 (c) Interest shall accrue on the amount allowed on the claim at  
38 no more than the average Pooled Money Investment Account rate  
39 for the previous fiscal year, but shall not exceed 7 percent per  
40 annum.

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 965.5 of the Government Code is amended to  
3 read:

4 965.5. (a) A judgment for the payment of money against the  
5 state or a state agency is enforceable until 10 years after the time  
6 the judgment becomes final or, if the judgment is payable in  
7 installments, until 10 years after the final installment becomes due.

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

12 ~~(c) Interest on the amount of a judgment or settlement for the~~  
13 ~~payment of money against the state shall commence to accrue 180~~  
14 ~~days from the date of the final judgment or settlement and shall~~  
15 ~~accrue on the amount allowed on the claim at no more than the~~  
16 ~~average Pooled Money Investment Account rate for the previous~~  
17 ~~fiscal year, but shall not exceed 7 percent per annum.~~

18 *(c) Unless another statute or a collective bargaining contract*  
19 *provides a different interest rate, interest on a tax or inverse*  
20 *condemnation judgment or settlement for the payment of moneys*  
21 *against the state shall commence to accrue 180 days from the date*  
22 *of the final judgment or settlement and shall accrue at a rate equal*  
23 *to the weekly average one year constant maturity United States*  
24 *Treasury yield at the time of the judgment or settlement plus 2*  
25 *percent, but shall not exceed 7 percent per annum.* This subdivision  
26 does not apply to any claim approved by the California Victim  
27 Compensation and Government Claims Board.

28 ~~SEC. 4.~~

29 *SEC. 3.* Section 970.1 of the Government Code is amended to  
30 read:

31 970.1. (a) A judgment is enforceable until 10 years after the  
32 time the judgment becomes final or, if the judgment is payable in  
33 installments, until 10 years after the final installment becomes due.

34 (b) A judgment, whether or not final, is not enforceable under  
35 Title 9 (commencing with Section 680.010) of Part 2 of the Code  
36 of Civil Procedure but is enforceable under this article after it  
37 becomes final.

38 ~~(c) Except as otherwise provided by the contract, the interest~~  
39 ~~shall accrue on the amount allowed on the claim at no more than~~

1 ~~the average Pooled Money Investment Account rate for the~~  
2 ~~previous fiscal year, but shall not exceed 7 percent per annum.~~

3 *(c) Unless another statute or a collective bargaining contract*  
4 *provides a different interest rate, interest on a tax or inverse*  
5 *condemnation judgment or settlement against a local public entity*  
6 *shall accrue at a rate equal to the weekly average one year*  
7 *constant maturity United States Treasury yield at the time of the*  
8 *judgment or settlement plus 2 percent,*

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11 **CORRECTIONS:**

12 **Text—Page 6.**

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