

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY MAY 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 748

Introduced by Assembly Member Eggman

February 21, 2013

An act to amend Section 3287 of the Civil Code, and to amend Sections 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 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~~ *tax, fee*, 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% 2%, but not to exceed 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, unless another provision of law ~~or a collective bargaining contract~~ provides a different interest rate, interest on a ~~tax~~ tax, fee, 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) A person who is entitled to recover damages certain,
- 4 or capable of being made certain by calculation, and the right to
- 5 recover which is vested in the person upon a particular day, is
- 6 entitled also to recover interest thereon from that day, except when
- 7 the debtor is prevented by law, or by the act of the creditor from
- 8 paying the debt. This section is applicable to recovery of damages
- 9 and interest from any debtor, including the state or any county,
- 10 city, city and county, municipal corporation, public district, public
- 11 agency, or any political subdivision of the state.
- 12 (b) Every person who is entitled under any judgment to receive
- 13 damages based upon a cause of action in contract where the claim
- 14 was unliquidated, may also recover interest thereon from a date

1 prior to the entry of judgment as the court may, in its discretion,
2 fix, but in no event earlier than the date the action was filed.

3 (c) Unless another statute ~~or a collective bargaining contract~~
4 provides a different interest rate, in a ~~tax~~ *tax, fee*, or inverse
5 condemnation claim against a public entity that results in a
6 judgment against the public entity, interest shall accrue at a rate
7 equal to the weekly average one year constant maturity United
8 States Treasury yield, but shall not exceed 7 percent per annum.
9 That rate shall control until the judgment becomes enforceable
10 under Section 965.5 or ~~970.1~~, *970.1 of the Government Code*, at
11 which time interest shall accrue at an annual rate equal to the
12 weekly average one year constant maturity United States Treasury
13 yield at the time of the judgment plus ~~2 percent~~ *percent, but shall*
14 *not exceed 7 percent per annum.*

15 SEC. 2. Section 965.5 of the Government Code is amended to
16 read:

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

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

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

35 SEC. 3. Section 970.1 of the Government Code is amended to
36 read:

37 970.1. (a) A judgment is enforceable until 10 years after the
38 time the judgment becomes final or, if the judgment is payable in
39 installments, until 10 years after the final installment becomes due.

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

5 (c) Unless another statute ~~or a collective bargaining contract~~
6 provides a different interest rate, interest on a ~~tax~~ *tax, fee*, or inverse
7 condemnation judgment or settlement against a local public entity
8 shall accrue at a rate equal to the weekly average one year constant
9 maturity United States Treasury yield at the time of the judgment
10 or settlement plus 2 percent, *but shall not exceed 7 percent per*
11 *annum.*