

Assembly Bill No. 748

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, Eggman. Judgments against a public entity: interest.

Existing law provides that a person who is entitled to collect certain damages is also entitled to collect interest on the damages from that day, except as specified. Existing law provides that this requirement applies to the collection of interest from a public entity. Existing law prohibits, in an action to recover damages for a personal injury resulting from or occasioned by the tort of another, a public entity and a public employee whose action or condition was within the scope of employment from being liable for interest.

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 require, unless another provision of law provides a different interest rate, interest to accrue in a tax or fee 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 a tax or fee judgment against a local public entity or against the state or a state agency, except for a claim approved by the California Victim Compensation Government Claims Board, becomes enforceable pursuant to specified statutes also proposed to be amended in this bill, 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%, but not to exceed 7% per annum.

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

SECTION 1. Section 3287 of the Civil Code is amended to read:

3287. (a) A person who is entitled to recover damages certain, or capable of being made certain by calculation, and the right to recover which is vested in the person upon a particular day, is entitled also to recover interest thereon from that day, except when the debtor is prevented by law, or by the act of the creditor from paying the debt. This section is applicable to recovery of damages and interest from any debtor, including the state or any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state.

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

(c) Unless another statute provides a different interest rate, in a tax or fee claim against a public entity that results in a judgment against the public entity, interest shall accrue at a rate equal to the weekly average one year constant maturity United States Treasury yield, but shall not exceed 7 percent per annum. That rate shall control until the judgment becomes enforceable under Section 965.5 or 970.1 of the Government Code, at which time interest shall accrue 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 percent, but shall not exceed 7 percent per annum.

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

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

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

(c) Interest on the amount of a judgment or settlement for the payment of moneys against the state shall commence to accrue 180 days from the date of the final judgment or settlement.

(d) Unless another statute provides a different interest rate, interest on a tax or fee judgment for the payment of moneys against the state shall accrue at a rate equal to the weekly average one year constant maturity United States Treasury yield at the time of the judgment plus 2 percent, but shall not exceed 7 percent per annum.

(e) Subdivisions (c) and (d) shall not apply to any claim approved by the California Victim Compensation and Government Claims Board.

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

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

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

(c) Unless another statute provides a different interest rate, interest on a tax or fee judgment against a local public entity shall accrue at a rate equal to the weekly average one year constant maturity United States Treasury yield at the time of the judgment plus 2 percent, but shall not exceed 7 percent per annum.

Approved _____, 2013

Governor