

**Introduced by Senator Escutia**

February 23, 2001

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An act to add Section 7115 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as introduced, Escutia. Public contracts: notice of settlements.

Under existing law, a contract involving a public entity is voidable if it was entered into in violation of the prohibition against public officials and employees participating in contracts in which they have a financial interest.

This bill would require a person, as defined, who contracts with a public entity to disclose an obligation to pay \$100,000 or more to another public entity in connection with a settlement or judgment involving a legal dispute with the other public entity, and would permit the public entity to declare the contract void on that basis. For contracts in existence prior to January 1, 2002, settlements or other obligations of \$100,000 or more with a public entity during the preceding 5 years must be reported but are not a basis for the public entity declaring the contract void. The bill would also authorize a public entity to void a contract for failure to give the required notice.

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 7115 is added to the Public Contract
- 2 Code, to read:

1 7115. A person who has a contract in effect with a public  
2 entity, as defined by Section 1100, shall give notice to that public  
3 entity whenever that person is obligated to pay one hundred  
4 thousand dollars (\$100,000) or more to another public entity in  
5 connection with a settlement or judgment involving a legal dispute  
6 with the other public entity.

7 (a) For any contract entered into on or after January 1, 2002, a  
8 person subject to this section shall give notice to the public entity  
9 within 30 days of entering into the settlement agreement or being  
10 subject to an obligation described in subdivision (d). Within one  
11 year of receiving that notice, the public entity may, in its  
12 discretion, declare the contract void. The public entity may also  
13 declare the contract void, in its discretion, within one year of the  
14 discovery of the failure to give the notice required by this section.

15 (b) (1) For any contract entered into prior to January 1, 2002,  
16 that is in effect on that date, a person shall, by April 1, 2002, give  
17 notice of all settlements and obligations described in subdivision  
18 (d) subject to this section entered into or that occurred in the  
19 preceding five years.

20 (2) Except as provided in paragraph (3), a settlement or  
21 obligation described in subdivision (d) entered into or that  
22 occurred prior to January 1, 2002, may not be the basis for the  
23 public entity declaring the contract void.

24 (3) The public entity may declare the contract void, in its  
25 discretion, within one year of April 1, 2002, for failure to give the  
26 notice required by this section.

27 (c) The notice required by this section shall be in writing and  
28 sent by certified mail.

29 (d) For purposes of this section, the following definitions  
30 apply:

31 (1) "Settlement" means amounts of one hundred thousand  
32 dollars (\$100,000) or more owed to a public entity pursuant to an  
33 agreement under which the public entity gives up the right to  
34 pursue a civil or criminal proceeding in exchange for the person's  
35 agreement to pay the amount owed. In determining the amount of  
36 the settlement, amounts owed to the person by the public entity  
37 pursuant to a contract may not be considered as offsets reducing  
38 the amount of the settlement.

39 (2) The amount the person is otherwise obligated to pay in  
40 connection with a legal dispute includes a judgment for damages,



1 fines, or penalties in favor of the public entity that is obtained in  
2 a judicial or arbitration proceeding.

3 (3) “Person” means any individual, corporation, partnership,  
4 business entity, joint venture, or association, or any other  
5 organization or any combination thereof.

6 (e) This section does not impose an obligation to report a  
7 settlement of less than one hundred thousand dollars (\$100,000).

8 (f) The provisions of this section are in addition to, and do not  
9 supersede, any other remedies provided by law or contract that are  
10 consistent with this section.

