

Date of Meeting: April 17-18, 1959
Date of Memo: April 13, 1959

Memorandum 4-B

Views of County Auditors' Association

1. Please see letter attached.
2. I have talked to Mr. Hastings on the telephone on April 7 and learned that he has been instructed to "buck the bill in committee" if the Association's views respecting Sections 711, 714 and 717 are accepted. He does not have such instructions as to Sections 719 and 720.
3. I talked to Mr. Hastings and the Auditor of Butte County in Sacramento on April 8. They were adamant in their view that it is not feasible to have a claims filing period of less than a year for contract claims. They said that it is difficult enough to get people who deal with a county to present their invoices within a year. They indicated again that special problems would arise under a 100 day claim filing period in two situations (a) in the case of utilities some of which bill on a three months basis (b) "in back order" situations. (The latter arise when a supplier is out of stock on some items of an order and waits to bill the county until the out-of-stock items have been received and delivered; in such cases 100 days may easily elapse as to the first items delivered.)

I raised the question of the adequacy of Section 705 to provide for such problems as a county might have under the proposed statute. They indicated that this would not be sufficient because there are so

many claims (they indicated about 30%) of a contract nature against a county which are not based on written contract -- e.g., expert witness fees.

I suggested the possibility of changing the 100 days to 180 days and asked them whether this would meet or substantially alleviate the problems which they foresee under A. B. 405. They said that it would not and again repeated that no period less than a year would be satisfactory for contract claims.

Mr. Hastings' concern for county suppliers here is not only based on considerations of fairness to them but on his belief (based, he says, on a good deal of personal experience) that what would happen under the proposed statute is (a) that claims would not be filed on time (b) that suppliers would then sue the county and (c) that the courts would uniformly ignore the claims statute and give judgment for the claimants.

Sacramento County
Office of
Auditor-Controller
Sacramento 14, California

April 7, 1959

Mr. John McDonough
c/o Assemblyman Clark Bradley
Assembly Chambers
State Capitol
Sacramento, California

Dear Sir:

The County Auditors Association of California at a legislative meeting held on April 3, 1959, devoted considerable time to Assembly Bill 405 by Assemblyman Bradley. We are heartily in accord with the purpose and intent of this Bill. However, the combined experience of seventeen County Auditors of California indicate that possibly some amendments are needed. Following are our suggestions to make this a better Bill:

ACTION

We suggest that lines 26 and 27 of page 3 of the Bill as amended in the Assembly on March 21st be amended by the deletion of "persons presenting the claim"; and addition of "claimant".

REASON

It is our feeling that the claim should contain the address of the claimant even if it should be in the form of John Smith, c/o William Brown, Attorney, Address.

ACTION

On page 4, line 18 of the amended Bill, delete the wording "the one hundredth day" and insert "twelve months". On line 22d, delete the wording "such one hundredth day", and insert "twelve months after the cause of action and received not later than thirteen months after the cause of action".

REASON

One hundred days is not sufficient time for filing a claim against the County. As an example, a Utility billing on a quarterly basis to an outlying Judicial District might not discover that the prior quarter billing is unpaid until their billing cycle for the new quarter. A billing clerk of a stationery store might defer billing on a supply order until a back-ordered item is available. Again the local agency would be forced to reject such a claim. The present wording in Section 714 is also in conflict with Section 29702 of the Government Code, which states that "a claim shall be filed within a year after the last item accrued".

ACTION

On page 5, line 33 of the amended Bill, delete the word "shall" and insert "may".

REASON

On many occasions through neglect, error or negotiation, the County will not have processed a claim during the 80 days specified. The permissive clause would allow the County to complete the processing of the claim by normal routine rather than forcing the vendor to instigate court action.

ACTION

On page 6 please delete lines 4 through 21, inclusive.

REASON

The proposed Section 719 provides assurance to a claimant that he is not limited in an action against the public entity by the amount of his claim. While such assurance might be desirable from the standpoint of the claimant, it is certainly not desirable from the standpoint of the public entity. Section 720 as proposed is apparently an attempt to codify the rule of estoppel established in the case of Farrell v. County of Placer (1944) 23 Cal. 2d 624. Under the facts of the Farrell case the application of the doctrine of estoppel would be justified. However, the provisions of the proposed Section 720 go far beyond the factual situation in the Farrell case and would permit the estoppel of the county by comment made by an elevator operator or a custodian or a messenger or any other county employee who had nothing to do with the consideration of the claim. In our opinion it would be impossible adequately to codify the doctrine of estoppel and we believe the fairest position to be taken both toward the public entities and toward the claimants would be to omit any effort to do so.

Our association will be pleased to lend all of our efforts towards the passage of this bill if the objectionable sections can be amended.

Please feel free to call on me personally for any assistance.

S/J. H. Hastings

J. H. HASTINGS
Legislative Representative
County Auditors Association

JHH:me
cc: Uhler
Hegland
Rapp
Perrigo
McDougall