April 12, 1959

MEMORANDUM 4 - C

Mr. Richard A. Del Guercio, the legislative representative of the Los Angeles County Counsel has raised the following questions relating to A. B. 405 which have been raised by the Los Angeles County Auditor:

1. The 100 day presentation period is much too short for contract claims. He refers to the utility bill situation and also cases "where the parties are negotiating before a claim is filed, such as cases involving charge [change?] orders on certain contracts." (It was Del Guercio who got Hastings and through him the County Auditors Association interested in this aspect of the matter.)

2. The 80 day period for action by the Board is too short in the case of contract claims. The County Counsel would prefer that the present Government Code sections (enacted at the 1958 Extraordinary Session) be incorporated in the new bill.

> § 29714. With respect to claims based upon contracts, express or implied, if the board refuses or neglects to allow or reject a claim for 90 days after it is filed with the clerk, the claimant may treat the refusal or neglect as final action and rejection on the ninetieth day. . . .
>
> § 29714.1. With respect to claims based upon any acts or omissions of the county . . . if the board refuses or neglects to allow or reject a claim for 90 days after it is filed with the clerk, such refusal or neglect shall constitute final action and rejection on the ninetieth day. . . .

Note: It might be observed that Sections 29714 and 29714.1 are not necessarily mutually exclusive. Cf. the difficulties we have had in defining "tort" and other causes of action in connection with our study

of survival of tort actions.

3. The County Counsel believes that the requirement in Section 716 that notice of any action taken thereunder shall be given in writing to the person who presented the claim is unnecessary in those cases where the claim is approved for the total amount claimed and states that it would impose a substantial clerical burden on the county.