

m F

Date of Meeting: December 12-13, 1958

Date of Memo: December 5, 1958

Memorandum No. 1

Subject: Study No. 37(L) - Claims

Pursuant to authority given to us at the November meeting, the Chairman and I are endeavouring to prepare a recommendation of the Commission on this subject and to put the bills necessary to effectuate the recommendation in final form. We are scheduled to have a session in his office tomorrow for this purpose.

I enclose copies of some documents which I have prepared in connection with tomorrow's session for distribution to Messrs. Stanton, Kleps and Van Alstyne. I believe that you will find these self-explanatory. It occurs to me that you may find them of interest and that if you are able to find time to look them over they may raise some questions in your mind which you might wish to raise with me by letter or telephone call. It also seems quite possible that out of tomorrow's session there will come questions for discussion at the meeting next week and that it will be necessary to have this material at hand for that purpose. If such questions do arise I will write you a memorandum about them before the meeting.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

12/4/58

Memorandum to:

Messrs. Thomas E. Stanton, Jr.,
Ralph N. Kleps, Arvo Van Alstyne

I enclose draft bills embodying the legislation necessary to dovetail the new general claims statute into existing law with respect to counties (A), cities (B) and districts (C). I enclose also a copy of the proposed constitutional amendment and proposed Division 3.5 of Title 1 of the Government Code. I sent you a copy of this last item earlier this week but the enclosed copy has a series of numbers in the lefthand margin to which remarks made below in this memorandum are keyed.

In the case of Messrs. Kleps and Van Alstyne I would appreciate it if you would telephone me on Friday, December 5 with respect to any comments which you may have on any of this material and on the proposed recommendation of the Commission which I sent to you earlier this week.

There are set forth below comments explaining what I have in mind in the case of some changes proposed by the staff in the material which I have sent to you. Where no comment is made with respect to a particular change which we have proposed, it is because I believe that the purpose of the change is self-evident.

I. Proposed Division 3.5

(1) (page 8) This section was discussed at considerable length at Yosemite. Ultimately, it seemed to be agreed that the distinction we

are trying to make should be drawn in terms of whether or not warrants paying claims against the entity are drawn by the Controller. This seems sound enough to me; are there other views on the matter?

(2) I now believe that we should omit "Articles 1 and 2 of" and change "apply" to "applies." It would seem that the considerations which have led the Commission not to apply the new claims statute to pending causes of action would lead it not to want to authorize a local public entity to enact a claims statute applicable to such claims, which Article 3 would do unless restricted by Section 704.

(3) (page 11) I have changed the form of this statement because it seems to me that Article 1 does not provide anything with respect to presentation of claims; all it does is define the cases to which the new claims statute applies.

(4) (page 14) I believe that the changes made here spell out somewhat more explicitly what we intended. Quere whether subsection (c) should not require the governing body to allow the claim for the amount justly due; there is some inconsistency in this respect, I think, between subsections (b) and (c). What subsection (c) does is to authorize the entity to withhold what it admits is justly due unless the claimant gives up what it refuses to admit (but he believes) is due in addition.

(5) The change made here is intended to provide for the (probably hypothetical) situation where the claimant has not accepted the amount allowed even though the governing body has not required him to do so.

II. Bill Relating to Counties (A)

(6) The "except clause" seems necessary because of the second

paragraph of this section and also because of Section 29705. "Whether chartered or not" is added to foreclose the possibility of misunderstanding. This makes it necessary to add the second paragraph.

(7) (page 4) The "other than ~~the~~" clause reflects the action taken by the Commission at Yosemite. The thought was that to permit the board to adopt forms for claims falling under the new general claims statute would be to create the possibility that the objectives of the new statute would be defeated. However, the problem may have been resolved in such a way as to unduly restrict the counties in processing efficiently claims falling under the new statute. What would you think of adding a Section 29705.1 to read somewhat along the following lines:

29705.1 The board may provide by ordinance that the forms adopted pursuant to Section 29705 may be used in the internal processing of claims presented in conformity with the provisions of Articles 1 and 2 of Chapter 2 (commencing at Section 700) of Division 3.5 of Title 1 of this code. In such cases the forms shall be filled out by county clerical personnel using the information furnished in the claim presented. When so filled out the forms may be processed as are other claims governed by Section 29705.

(8) Since these claims do not fall under the new statute there would seem to be no particular justification for eliminating the existing requirement of verification in connection with the present study.

II. Bill Relating to Cities (B)

(9) This section has been changed considerably. My difficulty with it as drafted by Arvo was that insofar as it authorized cities to prescribe by ordinance rules governing presentation and consideration of claims for money and damages (among others) it duplicates Section 722 of the Government Code (Article 3 of the new general claims statute). As I see it, presentation and consideration of any claim against a city for money or damages is governed by one of the following: (1) Articles 1 and 2 of Chapter 2 of Division 3.5; (2) other statutes or regulations expressly applicable thereto (e.g., the provisions of the Revenue and Taxation Code relating to tax refunds); or (3) ordinances adopted pursuant to Section 722. This is what the first sentence of Section 37201 says, as revised. All that remains to be provided for in Section 37201 are demands against the city other than for money or damages and this is done in the second sentence of the first paragraph of Section 37201 as revised.

The second ~~section~~ ^{paragraph} is added for the same reason as was given in the case of Section 29700. Query whether "the city" in the first sentence of the section should be changed to "any city, whether chartered or not."

III. Bill Relating to Districts (C)

(10) Second underlined sentence added to avoid what would be a substantive change in existing law with respect to claims not falling within the new general claims statute, on the theory that our changes are limited to those necessary to conform the present law to the new statute.

(11) Same as (10).

(12) (page 7) The change made here is also made at a number

of points below. The underlying thought is this: Section 56117 (and the other sections in which the same change is suggested below) presently provide that with respect to the district in question claims are to be prepared, presented, audited and paid as are claims against the county. All that it is necessary to do in connection with the present legislation is to except from the coverage of Section 56117 the preparation and presentation of claims governed by the new general claims statute. There is no reason why such claims should not continue to be audited and paid as are claims against the county, particularly since we have carefully conformed the statutes governing the auditing and paying of such claims to the new claims statute.

(13) (page 20) It seems to me that the question of how the new general claims statute would apply when a claim must be presented to the board of trustees of the district and action taken upon it and then presented to the board of supervisors is not at all clear. Moreover, the requirement of presentation to two separate bodies seems to be quite inconsistent with the objectives of the new statute. Hence I propose the elimination of the double-bracketed material.

If it were thought that the present substantive requirement of having claims against these districts passed upon by the two bodies should not be eliminated in the course of the present revision, then I would suggest that the first two double-bracketed phrases be eliminated and that the following be substituted for the first sentence of the last paragraph:

Before the board of supervisors considers a claim against the district it shall refer the claim to the board of trustees of the district for its recommendation. The board of trustees shall recommend either that the claim be

approved or that it be rejected in whole or in part.

(if this were done, some minor language changes would have to be made in the second sentence of the paragraph to conform it to the first sentence.)

(14) "Standard provision" means the same provision as that set forth in Section 38 of the bill.

(15) "Executive" should read "Extraordinary."

(16) It is proposed that the bracketed material be added to this section and also in all sections which contain the statement "Same as Section 82." It is also proposed that the words "and all claims shall be" be added to the bracketed section before the word "audited." My thought is this: the first sentence of Section 61628 provides for the presentation and to some extent for the consideration of all claims for money or damages not excepted from the new general claims statute. This means, among other things, that under Article 3 of the new claims statute claims for money or damages not otherwise provided for may be governed by a procedure prescribed by a regulation adopted by the district. Thus, Section 61628 provides completely for the presentation of claims for money or damages. Section 61628 does not, however, provide for presentation of claims against the district other than for money or damages, nor does it provide for the auditing and payment of any claims against the district. It seems to me that these matters should be provided for and the bracketed material is offered for that purpose.

(17) The words "and all claims shall be" should be added before the word "audited" in the bracketed material.

The comment made under (16) is applicable here and to all sections below which contain the statement "Same as Section 99."

JRM:imh

John R. McDonough, Jr.
Executive Secretary

RECOMMENDATION OF CALIFORNIA LAW

REVISION COMMISSION

relating to

Presentation of Claims Against Local Public Entities

The law of this State contains many statutes and county and city charters and ordinances which bar suit against a governmental entity for money or damages unless a written statement or "claim" setting forth the nature of the right asserted against the entity, the circumstances giving rise thereto and the amount involved is communicated to the entity within a relatively short time after the claimant's cause of action has accrued. Such provisions are referred to in this Recommendation and Study as "claims statutes."

Claims statutes have two principal purposes. First, they give the governmental entity an opportunity to settle just claims before suit is brought. Second, they permit the entity to make an early investigation of the facts on which a claim is based, thus enabling it to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim.

The principle justifying claims statutes has been extensively accepted in California over a long period of time. Claims statutes appeared as early as 1855. Today there are at least 174 separate claims provisions in the law of this State, scattered through statutes, charters, ordinances and regulations. As appears below and more fully in the research consultant's report, these provisions differ widely as to many material

Recommendation
Gen. Claims Statute
Amendment

matters, including claims covered, time for filing, and information required to be furnished.

It has become increasingly clear in recent years that the implementation of the claims statute principle in this State by the enactment of numerous and conflicting claims provisions has created grave problems both for governmental entities and those who have just claims against them. The Law Revision Commission was, therefore, authorized and directed to study and analyze the various provisions of law relating to the filing of claims against public bodies and public employees to determine whether they should be made uniform and otherwise revised.¹ The Commission has made an exhaustive study of existing claims statutes and the judicial decisions interpreting and applying them.

On the basis of this study the Commission has concluded that the law of this State governing the presentation of claims against governmental entities is unduly complex, inconsistent, ambiguous and difficult to find, that it is productive of much litigation and that it often results in the barring of just claims. This conclusion is supported by the following facts among others disclosed by the Commission's study:²

¹ Cal. Stat. 1956, res. c. 35, p. 256

² For a more complete statement of the defects in existing claims statutes see research consultant's study, infra at pp. 0000-0000.

1. There are at least 174 separate claims provisions in California. Yet a large number of cities, districts and other local entities are not protected by any claims statute.

2. There is great disparity among existing claims statutes with respect to the types of claims which are subject to presentation requirements, the time limits for presenting claims, the official to whom claims must be presented, the information which the claimant must furnish, the requirements of verification and signature, the time allowed for consideration of the claim by the governmental entity and the time allowed for commencing an action after a claim is rejected. A claim must be presented in conformity with the provisions of the particular claims statute applicable to it to avoid barring suit on the claim. Yet there is much ambiguity and overlapping in claims provisions, with the result that claimants, attorneys and courts are often confused as to which, if any, of several claims provisions applies to a particular case.

3. The courts have generally given claims provisions a strict construction, although a few courts have been relatively liberal in particular cases. As a result, many actions based upon apparently valid claims have been barred solely by reason of a technical failure to comply with the applicable claims statute, whereas in other factually similar cases technical deficiencies have not barred relief. This results in unfairness to particular claimants and leads to unnecessary litigation.

4. No consistent pattern appears in the judicial decisions dealing with the extent to which the principles of waiver and estoppel may be invoked to preclude a governmental entity from relying upon technical noncompliance with a claims provision.

5. Failure to comply with technical requirements of claims provisions, such as the failure to verify a claim, has frequently been the basis for barring relief to a claimant, even though such defect clearly did not impair the effectiveness of the claim in fulfilling the basic notice-giving function and purpose of the claim filing requirement. Although the courts have often applied the doctrine of substantial compliance to excuse certain technical failures to comply with claims filing requirements, there is great uncertainty as to which types of defects may and may not be excused through application of this doctrine.

The Commission has concluded that these and other substantial defects in existing claims statutes, detailed in its research consultant's study, require remedial legislative action. The Commission does not believe, however, that these defects warrant an abandonment of the claims statute principle in this State. The legitimate interests of governmental entities and the public whom they represent require that prompt notice of claims against them be given to such entities. The Commission recommends, therefore, not only that the principle be continued in effect as to those governmental entities which are now protected by claims statutes but that similar protection be extended to the considerable number of such entities which do not presently have it.

On the other hand, the Commission believes that the glaring defects in existing claims statutes can be virtually eliminated by legislative action. To this end the Commission has drafted a new general claims statute which, if enacted, would govern the presentation of most claims for money or damages against governmental entities in this State. The Commission recommends that the Legislature enact this new general claims

statute and that existing claims provisions be repealed or revised to conform to the new statute. The Commission believes that if this recommendation is accepted the legitimate interest of governmental entities in prompt notice of claims against them will be adequately protected while, by virtue of the ready accessibility and general coverage of the new statute, just claims can be easily filed and the substantial rights of claimants preserved.

The principal features of the legislation recommended by the Commission are the following:

Claims Presentation Procedure. The basic scheme of the proposed general claims statute is simple: no suit may be brought against a governmental entity on a cause of action to which the statute is applicable until a written claim relating thereto has been presented to the entity and time has been allowed for action thereon by its governing body. The claim must be presented not later than 100 days after the cause of action to which it relates has accrued. Thereafter the governing body has 80 days within which to act upon the claim. If it does not act within 80 days, the claim is deemed denied as a matter of law. Suit must be brought within nine months after the date on which the claim was presented.

Provisions Designed To Avoid Injustice. The statute incorporates three provisions designed to alleviate hardship to claimants which have been recognized, albeit not uniformly, in the decisions or statutes of this and other states:

(a) Defects in a claim are waived unless the claimant is given written notice thereof by the entity.

(b) Time for filing is extended for a period not to exceed one year in the case of the claimant's death, minority, or physical or mental disability during the claim-presenting period, if the governmental entity will not be unduly prejudiced thereby.

(c) The governmental entity is estopped to assert the claimant's failure to comply with the statute if he relied upon a representation made by an officer, employee or agent of the entity that a presentation of claim was not necessary or that a claim as filed conformed to legal requirements.

Constitutional Amendment. If the goal of general uniformity of claim provisions is to be realized in respect of chartered counties, cities and counties and cities it is desirable to amend the Constitution to confirm the Legislature's power to prescribe procedures governing the presentation, consideration and enforcement of claims against such entities. The Commission has drafted and recommends the adoption of a constitutional amendment for this purpose. The statutes proposed by the Commission expressly provide that they shall not take effect as to a chartered county or city which has a claims procedure prescribed by charter or pursuant thereto until this constitutional amendment has been adopted.

Coverage of General Claims Statute. The proposed new statute does not govern the presentation of all claims against all governmental entities in this State. Claims against the State itself have been omitted therefrom because the State is unique in comparison with other entities, its legislative body does not meet regularly throughout the year, and the existing statutory provisions governing the filing of claims against the

State appear to provide an adequate and well established procedure. Thus, the new statute applies only to local public entities, defined to include any county, city and county or city (but delayed in effect as to some chartered counties and cities as explained above) and any district, local authority or other political subdivision of the State, claims against which are not paid by warrants drawn by the State Controller.

Even as to local public entities, however, the coverage of the new general claims statute is not universal. Like nearly all existing claims statutes, it applies only to claims for money or damages. Moreover, certain types of claims for money or damages are expressly excluded from the statute -- for example, claims for tax exemptions and refunds, claims by public officers and employees for salaries, expenses and allowances, and claims for principal and interest on bonded indebtedness. In such cases the same need for prompt notice and investigation does not usually exist and the filing of such claims can better be regulated by the statute which creates and governs the rights involved. Another exception to the coverage of the proposed statute is found in the authority given to local public entities to include special provisions in written contracts governing the presentation, consideration and payment of claims arising thereunder, thus permitting a desirable flexibility in contract situations.

Coordination of the New General Claims Statute With Existing Law.

The legislation recommended by the Commission includes the following provisions designed to fit the new general claims statute into the law of this State in such a way as to accomplish the desired simplification of the law without prejudice to either the local public entities or the claimants to whom it will apply:

(a) All statutes presently governing the presentation of claims against local public entities have been either repealed or amended where this is necessary to eliminate conflicts between them and the new general claims statute. In the interest of improving the structure of the Government Code the provisions thereof relating to claims against the State (Sections 16001-16054) and those relating to claims against public officers and employees (Sections 1980-82) have been transferred to new Division 3.5 of Title 1 of the Government Code. Thus, Division 3.5 will contain the statutes governing claims against the State, against local public entities (the new general claims statute) and against public officers and employees.³

(b) All local public entities are authorized to prescribe by charter, ordinance or regulation claims procedures applicable to claims not governed by the general claims statute or by other statutes specifically applicable thereto. This is necessary to close the gap in existing claims statute coverage which will be created by the repeal of claims statutes insofar as they apply to types of claims not covered by the new general claims statute.

(c) If the objectives of this study are to be achieved it will also be necessary for local public entities to repeal claims provisions which are presently found in their charters, ordinances and regulations lest these become traps for unwary citizens. The Commission hopes that this coordination of local law with the new statute will be expeditiously

³ The legislative bills necessary to accomplish this coordination of the statutory law relating to claims against governmental entities are not printed in this publication, both because of their length and because so much of the legislation is of a repetitious character.

accomplished soon after the enactment of the new general claims statute. It is anticipated, however, that at best it will take some time to accomplish all repeals and amendments of existing claims provisions which will be necessary to coordinate them with the new statute. The Commission has, therefore, included in the general claims statute a provision that until July 1, 1964 (nearly five years after the effective date of a bill enacted by the 1959 Session of the Legislature) a claim may be presented in conformity either with the new statute or with any existing claims procedure established by or pursuant to a statute, charter or ordinance in effect immediately prior to the effective date of the new claims statute and not yet repealed at the time the claim is presented.

Claims Against Public Officers and Employees. There are several provisions in the law of this State which require that a claim be filed before suit can be brought against a public officer or employee on his personal liability to the claimant. These provisions are in many respects ambiguous, uncertain and overlapping, thus sharing most of the defects found in existing claims provisions pertaining to public entities. Substantial questions exist as to whether such provisions are justifiable and, if so, whether they should be made uniformly applicable to officers and employees of all local public entities. If it is determined that such provisions should remain in existence as to some or all entities they should be amended to eliminate existing ambiguities and overlaps.

The Law Revision Commission has not had an opportunity to give public officer and employee claims statutes sufficient study to be prepared to make a recommendation concerning them at this time. The Commission intends to study these claims statutes further and to present a recommendation concerning them to a later session of the Legislature.

12/16/58

The Commission's recommendation that a new general claims statute be established would be effectuated by the enactment of the following measures:

I

An act to add the title of Division 3.5 of Title 1 to the Government Code, to add Chapter 2 of said Division 3.5 to said code, to repeal Section 342 of the Code of Civil Procedure and to add Sections 313 and 342 to said code.

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

SECTION 1. The title of Division 3.5 of Title 1 is added to the Government Code to read:

DIVISION 3.5. CLAIMS AGAINST THE STATE, LOCAL
PUBLIC ENTITIES AND OFFICERS AND EMPLOYEES

SEC. 2. Chapter 2 is added to Division 3.5 of Title 1 of the Government Code to read:

CHAPTER 2. CLAIMS AGAINST LOCAL PUBLIC ENTITIES

Article 1. General

700. As used in this chapter, "local public entity" includes any county or city and any district, local authority or other political subdivision of the State but does not include the State or any office, officer,

department, division, bureau, board, commission or agency thereof, claims against which are paid by warrants drawn by the Controller.

701. Until the adoption by the people of an amendment to the Constitution of the State of California confirming the authority of the Legislature to prescribe procedures governing the presentation, consideration and enforcement of claims against chartered counties, cities and counties and cities and against officers, agents and employees thereof, this chapter shall not apply to a chartered county or city while it has a claims procedure prescribed by charter or pursuant thereto.

702. This chapter applies only to claims relating to causes of action which accrue subsequent to its effective date.

703. Articles 1 and 2 of this chapter apply to all claims for money or damages against local public entities except:

- (a) Claims under the Revenue and Taxation Code or other provisions of law prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee or charge or any portion thereof, or of any penalties, costs or charges related thereto.

- (b) Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers' or materialmen's liens.
- (c) Claims by public officers and employees for fees, salaries, wages, mileage or other expenses and allowances.
- (d) Claims for which the workmen's compensation authorized by Division 4 of the Labor Code is the exclusive remedy.
- (e) Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance.
- (f) Applications or claims for money or benefits under any public retirement or pension system.
- (g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.
- (h) Claims which relate to a special assessment constituting a specific lien against the property assessed and which are payable from the proceeds of such an assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it.

- (i) Claims by the State or a department or agency thereof or by another local public entity.

704. A claim against a local public entity presented in substantial compliance with any other applicable claims procedure established by or pursuant to a statute, charter or ordinance in effect immediately prior to the effective date of this chapter shall satisfy the requirements of Articles 1 and 2 of this chapter, if such compliance takes place before the repeal of such statute, charter or ordinance or before July 1, 1964, whichever occurs first. Sections 715 and 720 are applicable to claims governed by this section.

705. The governing body of a local public entity may authorize the inclusion in any written agreement to which the entity, its governing body, or any board or officer thereof in an official capacity is a party, of provisions governing the presentation, by or on behalf of any party thereto, of any or all claims arising out of or related to the agreement and the consideration and payment of such claims. A claims procedure established by an agreement made pursuant to this section exclusively governs the claims to which it relates, except that the agreement may not require a shorter time for presentation of any claim than the time provided in Section 714, and that Sections 715 and 720 are applicable to all such claims.

Article 2. Claim As Prerequisite to Suit

710. No suit for money or damages may be brought against a local public entity on a cause of action for which this chapter requires a claim to be presented until a written claim therefor

has been presented to the entity in conformity with the provisions of this article and has been rejected in whole or in part.

711. A claim shall be presented by the claimant or by a person acting on his behalf and shall show:

- (a) The name of the claimant;
- (b) The residence or business address of the person presenting the claim;
- (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
- (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim; and
- (e) The amount claimed as of the date of presentation of the claim, together with the basis of computation thereof.

A claim may be amended at any time before final action thereon is taken by the governing body of the local public entity. The amendment shall be considered a part of the original claim for all purposes.

712. If in the opinion of the governing body of the local public entity a claim as presented fails to comply substantially with the requirements of Section 711 the governing body may, at any time within 60 days after the claim is presented, give the person presenting the claim written notice of its insufficiency, stating with particularity the defects or omissions therein. The governing body may not take final action on the claim for a period of 10 days after such notice is given. A failure or refusal to amend the claim shall not constitute a defense to any action brought upon the cause of action for which the claim was presented if the court finds that the claim as presented complied substantially with Section 711.

713. When suit is brought against a local public entity on a cause of action for which this chapter requires a claim to be presented, the local public entity may assert as a defense either that no claim was presented or that a claim as presented did not comply substantially with the requirements of Section 711, unless such defense has been waived. Any defense based upon a defect or omission in a claim as presented is waived by failure of the governing body to give notice of insufficiency with respect to such defect or omission as provided in Section 712, except that no notice need be given and no waiver shall result when the claim as presented fails to give the residence or business address of the person presenting it.

714. A claim may be presented to a local public entity (1) by delivering the claim personally to the clerk or secretary thereof not later than the one hundredth day after the cause of action to which the claim relates has accrued or (2) by sending the claim to such clerk or secretary or to the governing body at its principal office by mail postmarked not later than such one hundredth day. A claim shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided herein if it is actually received by the clerk, secretary, or governing body within the time prescribed.

For the purpose of computing the time limit prescribed by this section, the date of accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if the claim were being asserted against a defendant other than a local public entity.

715. The superior court of the county in which the local public entity has its principal office shall grant leave to present a claim after the expiration of the time specified in Section 714 if the entity against which the claim is made will not be unduly prejudiced thereby, where no claim was presented during such time and where:

- (a) Claimant was less than 16 years of age during all of such time; or

- (b) Claimant was physically or mentally incapacitated during all of such time and by reason of such disability failed to present a claim during such time; or
- (c) Claimant died before the expiration of such time.

Application for such leave must be made by verified petition showing the reason for the delay. A copy of the proposed claim shall be attached to the petition. The petition shall be filed within a reasonable time, not to exceed one year, after the time specified in Section 714 has expired. A copy of the petition and the proposed claim and a written notice of the time and place of hearing thereof shall be served on the clerk or secretary or governing body of the local public entity not less than ten days before such hearing. The application shall be determined upon the basis of the verified petition, any affidavits in support of or in opposition thereto, and any additional evidence received at such hearing.

716. Within eighty days after a claim is presented, the governing body shall take final action on the claim in one of the following ways:

- (a) If the governing body finds the claim is not a proper charge against the local public entity, it shall reject the claim.
- (b) If the governing body finds the claim is a proper charge against the local public entity and is for an amount justly due, it shall allow

the claim.

- (c) If the governing body finds the claim is a proper charge against the local public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance. If the governing body allows the claim in part and rejects it in part it may require the claimant to accept the amount allowed in settlement of the entire claim.

Notice of any action taken under this section shall be given in writing by the clerk or secretary of the local public entity to the person who presented the claim. Action taken under this section shall be final and may not be reconsidered by the governing body, but nothing herein shall prohibit the governing body from compromising any suit based upon the cause of action to which the claim relates.

717. If the governing body of the local public entity fails or refuses to act on a claim in the manner provided in Section 716 within eighty days after the claim has been presented, the claim shall be deemed to have been rejected on the eightieth day.

718. Where this chapter requires that a claim be presented to the local public entity and a claim is presented and final

action thereon is taken by the governing body:

- (a) If the claim is allowed in full no suit may be maintained on any part of the cause of action to which the claim relates.
- (b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.
- (c) If the claim is allowed in part no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the governing body to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

Nothing in this article shall be construed to deprive a claimant of the right to resort to writ of mandamus or other proceeding against the local public entity or the governing body or any officer thereof to compel it or him to act upon a claim or pay the same when and to the extent that it has been allowed.

719. Except as provided in Section 718, when suit is brought against a local public entity on a cause of action for which this chapter requires a claim to be presented, neither the amount set forth in a claim relating thereto or any amendment of such claim nor any action taken by the governing body of the entity on such claim shall constitute a limitation upon the amount which may be pleaded, proved or recovered.

720. When suit is brought against a local public entity on a cause of action for which this chapter requires a claim to be presented, the entity shall be estopped from asserting as a defense to the action the insufficiency of the claim as to form or content or as to time, place or method of presentation of the claim if the claimant or person presenting the claim on his behalf reasonably and in good faith relied on any representation, express or implied, made by any officer, employee or agent of the entity, that a presentation of claim was unnecessary or that a claim had been presented in conformity with legal requirements.

721. Any suit brought against a local public entity on a cause of action for which this chapter requires a claim to be presented must be commenced within nine months after the date of presentation of the claim.

Article 3. Claims Procedures Established by Local Public Entities

730. Claims against a local public entity for money or damages which are excepted by Section 703 from Articles 1 and 2 of this chapter, and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedure prescribed in any charter, ordinance or regulation adopted by the local public entity pursuant to law. The procedure so prescribed may include a requirement that a claim be presented and rejected as a prerequisite to suit thereon, but may not require a shorter time for presentation of any claim

than the time provided in Section 714 of this code, and Sections 715 and 720 of this code shall be applicable to all claims governed thereby.

SEC. 3. Section 342 of the Code of Civil Procedure is hereby repealed.

SEC. 4. Section 342 is added to the Code of Civil Procedure to read:

342. An action against a local public entity, as defined in Section 700 of the Government Code, upon a cause of action for which a claim is required to be presented by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code must be commenced within the time provided in Section 721 of the Government Code.

SEC. 5. Section 313 is added to the Code of Civil Procedure to read:

313. The general procedure for the presentation of claims as a prerequisite to commencement of actions for money or damages against the State of California, counties, cities, cities and counties, districts, local authorities, and other political subdivisions of the State, and against the officers and employees thereof, is prescribed by Division 3.5 (commencing with Section 600) of Title 1 of the Government Code.

II

A resolution to propose to the people of the State of California an amendment to the Constitution of the State by adding Section 10 to Article XI thereof, relating to the power of the Legislature to enact legislation in respect of the presentation, consideration and enforcement of claims against chartered counties, cities and counties and cities and against officers, agents and employees thereof.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1959 Regular Session commencing on the 5th day of January, 1959, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 10 to Article XI thereof, to read:

Sec. 10. No provision of this article shall limit the power of the Legislature to prescribe procedures governing the presentation, consideration and enforcement of claims against chartered counties, cities and counties and cities, or against officers, agents and employees thereof.

An act to repeal Sections 29700, 29700.1, 29701, 29702, 29703, 29704, 29705, 29707, 29711, 29713, 29714, 29715, 29716, 29720, to enact Sections 29700 and 29706, to renumber Section 29719, to renumber and amend Sections 29706, 29708, 29709, 29710, 29712, 29717, 29718, 29721 and to amend Sections 29741, 29744 and 29748 of the Government Code, and to amend Section 439.56 of the Agricultural Code and Section 945 of the Military and Veterans Code, all relating to claims against counties.

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

SECTION 1. Sections 29700, 29700.1, 29701, 29702, 29703, 29704, 29705, 29707, 29711, 29713, 29714, 29715, 29716, and 29720 of the Government Code are hereby repealed.

SEC. 2. Section 29700 is added to said code to read:

29700. This Except as otherwise provided herein, this chapter applies to all claims for money or damages against counties including claims which are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of this code.

SEC. 3. Section 29706 of said code is renumbered and amended to read:

29706 29701. The board shall not ~~pass-upon~~ consider a claim,

unless it is ~~filed with the clerk or auditor~~ presented not less than three days, or, if prescribed by ordinance, five days, prior to the time date of the meeting of the board at which it is ~~asked to be allowed~~ considered.

SEC. 4. Section 29708 of said code is renumbered and amended to read:

~~29708~~ 29702. The A claim based upon an expenditure directed to be made by any officer shall be approved before filing by the such officer who directed the expenditure before it is considered by the board.

SEC. 5. Section 29709 of said code is renumbered and amended to read:

~~29709~~ 29703. ~~If the claim is allowed by the board, When the board acts upon a claim the clerk of the board shall detach and file the a memorandum of the action taken and endorse on the claim "allowed by the board of supervisors," together with the date of the allowance, a statement of the action taken thereof. If the claim is allowed in whole or in part, the memorandum and endorsement shall state the date of the allowance, the amount of the allowance, and from what fund allowed, and, whether the board requires the claimant to accept the amount allowed in settlement of the entire claim. The clerk shall attest the claim The endorsement shall be attested by the clerk with his signature and, when countersigned by the chairman, shall transmit it and the claim, when duly endorsed, attested and countersigned, shall be transmitted by the clerk~~

to the auditor.

SEC. 6. Section 29710 is renumbered and amended to read:

29710 29704. If the auditor approves the action taken upon the claim, he shall endorse upon it on the claim "approved," date, and number of the warrant, and in attestation thereof affix and attest the endorsement with his signature to the claim and deliver it. He shall then issue and tender to the claimant, his warrant for the amount allowed. Where the board has required the claimant to accept the amount allowed in settlement of the entire claim, the warrant shall not be delivered to the claimant until there has been delivered to the auditor a duly executed release or other instrument evidencing acceptance of the amount tendered in settlement of the entire claim.

SEC. 7. Section 29712 of said code is renumbered and amended to read:

29712 29705. In order to meet the needs of the particular county, the The board may adopt a different form or forms for the submission and payment of claims, and may prescribe and adopt warrant forms separate from claim forms, to the end that the approved claims may be permanently retained in the auditor's office as vouchers supporting the warrants issued. It may prescribe a different procedure for the allowance and payment of claims but the form of claim so adopted The forms so adopted may not be inconsistent with the provisions of this article or of any

other statutes or regulations expressly governing any such claims or the presentation thereof, and shall provide:

(a) For the approval of the officer directing the expenditure. In counties having a system under which expenditures may be initiated by requisition, the approval may be omitted from claims initiated by requisition.

(b) For the approval of the purchasing agent or other officers issuing the purchase order under which the charge was incurred, or having charge of contracts or schedules of salaries under which the claim arose.

(c) For the approval of at least one member of the board. In lieu of the supervisor's approval on each claim there may be substituted duplicate lists of claims allowed, showing, as to each claim, the name of the claimant, the amount allowed, and the date of allowance. The lists shall be certified to the board by the clerk of the board or other competent officer or employee designated by it for the purpose, as being a true list of claims properly and regularly coming before the board. Upon allowance of claims each of the lists, after amendment if necessary, shall be certified to as having been allowed by the board, the date allowed, and that such lists are correct by one member of the board or by the clerk of the board and filed, one in the office of the clerk of the board and one in the office of the auditor. When filed the lists constitute respectively the "allowance book" and the "warrant book."

(d) For the certificate of the clerk of the board as to the date and amount of allowance of the claim by the board. If the duplicate lists of claims allowed are filed, the certificate may be omitted, but in its stead there shall appear on each claim a reference by date, number, or

otherwise to the list on which the claim appears listed as allowed.

(e) For the certificate of the clerk of the board or of the auditor as to the correctness of the computations.

(f) For the auditor's approval.

SEC. 8. Section 29706 is added to said code to read:

29706. Failure of a claimant to use a form prescribed by the board pursuant to Section 29705 is not a defense to a suit against the county on a claim for which Chapter 2 of Division 3.5 of Title 1 of this code requires a claim to be presented.

SEC. 9. Section 29717 of the said code is renumbered and amended to read:

29717 29707. Any claim against the county presented by a member of the board for per diem and mileage or other for service rendered by him shall be itemized, verified, ~~as other claims,~~ and state that the expense was actually incurred or the service was actually rendered. Before allowance, any such claim shall be presented to the district attorney or county counsel, who shall endorse upon it his written opinion as to its legality. If the district attorney or county counsel declares the claim or any part thereof illegal, he shall state specifically wherein it is illegal, and the claim or such part shall be rejected by the board.

SEC. 10. Section 29718 of the said code is renumbered and amended to read:

~~29718~~ 29708. Except for his own service, no county officer or employee, shall may present any claim for allowance against the county, -~~or~~ . No county officer or employee may in any way, except in the discharge of his official duty, advocate the relief asked in the a claim made by any other person.

SEC. 11. Section 29719 of the said code is renumbered to read:

~~29719~~ 29709. Any person may appear before the board and oppose the allowance of any claim made against the county.

SEC. 12. Section 29721 of the said code is renumbered and amended to read:

~~29721~~ 29710. No fee or charge shall be made or collected by any officer for verifying or ~~filing~~ receiving any claim

against the county.

SEC. 13. Section 29741 of the said code is amended to read:

29741. The auditor shall audit and allow or reject claims in lieu of, and with the same effect as, allowance or rejection by the board of supervisors in any of the following cases:

(a) The expenditures have been authorized by purchase orders issued by the purchasing agent or other officer authorized by the board.

(b) The expenditures have been authorized by contract, ordinance, resolution, or order of the board.

(c) Expenditures under the Welfare and Institutions Code have been ordered by the board.

SEC. 14. Section 29744 of the said code is amended to read:

29744. If the claimant is unwilling to receive the amount tendered in full payment, he shall return the warrant to the auditor within 30 days after the tender together with his written refusal to accept the amount in full payment of the claim. The auditor shall immediately transmit the claim to the board, together with a statement of his action, his reasons therefor, and claimant's refusal. The board shall consider and

take action upon the claim within 10 days after its receipt, and
may . It shall allow such an amount in payment thereof as is a
proper county charge, not to exceed the amount originally claimed,
, and may require the claimant to accept the amount allowed in settle-
ment of the entire claim. Sections 29703 and 29704 of the Government
Code shall be applicable thereto. The auditor shall issue his warrant
therefor.

SEC. 15. Section 29748 of the said code is amended to read:

29748. The board shall may prescribe, by resolution, the
additional procedures for the filing, audit, and disposition of claims,
but the procedures so prescribed may not be inconsistent with the
provisions of this chapter, of Chapter 2 (commencing at Section 700)
of Division 3.5 of Title 1 of the Government Code, or of any other
statutes or regulations expressly governing any such claims or the
payment thereof.

SEC. 16. Section 439.56 of the Agricultural Code is amended to
read:

439.56. Each such claim ~~shall be verified~~ is governed by
Chapter 2 (commencing with Section 700) of Division 3.5 of Title
1 of the Government Code, except that the claim as presented

shall be accompanied by the affidavits of two disinterested witnesses ~~who shall fix the value of the livestock, the affidavits~~ ~~to be~~ executed within four days after the finding of the carcasses of each animal. The affidavits shall fix the value of the livestock and ~~to~~ establish the fact beyond reasonable doubt that the animal was killed by a dog or dogs. ~~Such~~ When allowed, such claims shall be paid from the fund provided for in this chapter in the same manner as other claims against the county ~~are~~ paid. The word "livestock" as used in this article includes domestic fowls and rabbits.

SEC. 17. Section 945 of the Military and Veterans Code is amended to read:

945. The expenses to the county of each burial or contribution shall not exceed the sum of one hundred fifty dollars (\$150). ~~Claims therefor and the proof required under the terms of this article may be made at any time within sixty days after the date of the death of the veteran or widow of a veteran.~~ are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code.

An act to amend Sections 37201 and 39586 of the Government Code,
relating to claims against cities.

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

SECTION 1. Section 37201 of the Government Code is amended to read:

37201. Demands against the city shall-be-presented-as prescribed-by-ordinance for money or damages are governed by the provisions of Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of this code or by other statutes or regulations expressly applicable thereto.

SEC. 2. Section 39586 of the Government Code is amended to read:

39586. If the legislative body finds that property damage was caused by the negligence of a city officer or employee in connection with the abatement of a nuisance pursuant to this article, a claim for such damages may be paid from the city general fund. The-legislative-body-shall-not-consider or-pay-a-claim-unless-it-is-presented-in-writing-and-filed with-the-clerk-of-the-legislative-body-within-one-hundred eighty-days-after-the-damages-occurred. Claims therefor are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of this code.

Trailer Bill-Cities

*Bill to be drafted after
bill is approved* MF

12/1/58
(37(L))

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

SECTION 1. Section 1007 of the Education Code
is amended to read:

1007. A governing board of any school district
is liable as such in the name of the district for any
judgment against the district on account of injury to
person or property arising because of the negligence
of the district, or its officers or employees in any
case where a verified claim for damages has been
presented in writing and filed with the secretary or
clerk of the school district within ninety (90) days
after the accident has occurred. The claim shall
specify the name and address of the claimant, the date
and place of the accident, and extent of the injuries
or damages received.

SEC. 2. Article 1.5 is added to Chapter 1 of
Division 2 of the Education Code, to read:

Article 1.5 Claims

1018. All claims for money or damages against a
school district are governed by Chapter 2 (commencing
with Section 700) of Division 3.5 of Title 1 of the

Trailer Bill - Districts

Government Code, except as provided therein.

SEC. 3. Section 6370 of the Harbors and Navigation Code is amended to read:

10
6370. All claims and demands for money or damages against the district, ~~except interest coupons and installments of the principal on bonds payable by the district and salaries and wages, shall be filed with the auditor on forms and blanks prescribed by him,~~ are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. All claims not governed thereby shall be filed with the auditor on forms and blanks prescribed by him. A claim or demand shall not be paid without the endorsement of the auditor certifying to its correctness.

The auditor shall keep a record, which shall be a public record, of all claims against the district showing by whom made, for what purpose, the amount thereof and when paid.

SEC. 4. Section 6960 of the Harbors and Navigation Code is amended to read:

6960. All claims for money or damages against the district, ~~except interest coupons and installments of the principal on bonds payable by the~~

11

~~district-and-salaries-and-wages,-shall-be-filed-with~~
~~the-auditor-on-forms-and-blanks-prescribed-by-him,~~
are governed by Chapter 2 (commencing with Section
700) of Division 3.5 of Title 1 of the Government
Code, except as provided therein. All claims not
governed thereby shall be filed with the auditor on
forms and blanks prescribed by him. A claim shall
not be paid without the endorsement of the auditor
certifying to its correctness.

The auditor shall keep a record, which shall be
a public one, of all claims against the district show-
ing by whom made, for what purpose, the amount thereof
and when paid.

SEC. 5. Section 14163.5 is added to the Health
and Safety Code to read:

14163.5. All claims for money or damages against
the district are governed by Chapter 2 (commencing
with Section 700) of Division 3.5 of Title 1 of the
Government Code, except as provided therein.

SEC. 6. Section 14164 of the Health and Safety
Code is amended to read:

14164. ~~All-accounts,-bills,-and-demands~~ Subject
to the provisions of Section 14163.5, claims against
the district shall be audited, allowed, and paid by
the district board ^{AY} warrants drawn on the county

treasurer. As an alternative, the district board may instruct the county auditor to audit, allow and draw his warrant on the county treasurer for all legal demands claims presented to him and authorized by a majority of the district board. The county treasurer shall pay the warrants in the order in which they are presented.

SEC. 7. Section 5553 of the Public Resources Code is amended to read:

5553. The accountant shall install and maintain a system of auditing and accounting, which will completely and at all times show the financial condition of the district. He shall draw all warrants to pay demands claims made against the district after the demands claims have been first approved by a majority of the board at a meeting thereof, and he shall perform such other duties as may be imposed upon him by this article or by the board.

SEC. 8. Section 5553.5 is added to the Public Resources Code to read:

5553.5. All claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein.

SEC. 9. Section 5735 of the Public Resources Code is amended to read:

5735. The controller shall install and maintain a system of auditing and accounting, which will completely and at all times show the financial condition of the district. He shall draw all warrants to pay ~~demands~~ claims made against the district after the ~~demands~~ claims have been first approved by a majority of the board at a meeting thereof, and he shall perform such other duties as may be imposed upon him by this article or by the board.

SEC. 10. Section 5735.5 is added to the Public Resources Code to read:

5735.5. All claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein.

SEC. 11. Section 5784.19 of the Public Resources Code is amended to read:

5784.19. All claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. All ~~assessments,~~ ~~bills, and demands~~ claims against the district shall be audited, allowed, and paid by the district board

by warrants drawn on the county treasurer. As an alternative, the district board may instruct the county auditor to audit, allow and draw his warrant on the county treasurer, for all legal demands claims presented to him and authorized by a majority of the district board. The county treasurer shall pay the warrants in the order in which they are presented.

SEC. 12. Chapter 10.5 is added to Part 3 of Division 16 of the Streets and Highways Code, to read:

Chapter 10.5

Claims

27190. All claims for money or damages are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein.

SEC. 13. Section 27182 of the Streets & Highways Code is amended to read:

27182. The auditor under the direction of the general manager shall install and maintain a system of auditing and accounting which shall completely show the financial condition of the district at all times. He shall draw warrants to pay those demands claims made against the district which have been approved by the general manager, and the auditing committee, consisting of at least three members of the board, and

passed by the board.

SEC. 14. Section 56117 of the Water Code is amended to read:

[Here and in sections below bracketed material has been added by Staff]

56117. Payment from the operating fund shall be made upon demands claims allowed by the district board; . Claims for money or damages against the district are governed by the provisions of Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims, shall be and prepared [and] presented to the governing body, and [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] demands claims against ~~upon-the-funds-of~~ the county.

SEC. 15. Section 53 of the Fairfield-Suisun Sewer District Act is amended to read:

53. The district may issue warrants in payment of district obligations. When not paid for want of funds, the warrants shall be registerable as provided in the Government Code for registration of county warrants when not paid for want of funds. Demands ~~allowed-by-the-board-shall-be-prepared,-presented,-and-audited-in-the-same-manner-as-demands-upon-the~~

funds-of-the-county,--but Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county. All claims shall in every respect be free of the limitation of any budget law.

SEC. 16. Section 15 of the Kings River Conservation District Act is repealed.

SEC. 17. Section 15 is added to the Kings River Conservation District Act, to read:

15. Claims for money or damages against the district are governed by the provisions of Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the

same effect as [similar] claims against the county. The district may employ counsel to defend any action brought against it or any of its directors, officers, agents or employees on account of any taking, injury, damage or destruction to any property or injury or damage to any person, and the fees and expenses involved therein shall be a lawful charge against the district.

SEC. 18. Section 11 of Chapter 310 of the Statutes of 1905 is amended to read:

11. All monies collected from such district for such taxes, and all monies received from any source for the benefit of such district shall be by the county treasurer placed in a fund, to be called the "levee district fund"; and all payment of any of the expenses of the work or improvements for other expenses of such district shall be made upon warrants drawn upon the county auditor upon such fund, and paid by said treasurer, ~~and all claims as well for the land and improvements taken or damaged, as for charges and expenses of said district, shall be paid on claims prepared in the manner required by law for the preparation of claims against the county and first presented to the Board of Trustees of said district, and by them approved, and then to be presented and filed as are the claims against the county, and shall thereupon be paid as are~~

~~the-claims-against-the-county;-and-upon-the-order-of~~
~~the-Board-of-Supervisors;-and-the-claims-shall-be~~
~~itemized-in-the-same-manner-as-are-the-claims-against~~
~~the-county.~~ Claims for money or damages against the
district are governed by the provisions of Chapter 2
(commencing with Section 700) of Division 3.5 of
Title 1 of the Government Code, except as provided
therein. Claims not governed thereby or by other
statutes or by ordinances or regulations authorized
by law and expressly applicable to such claims shall
be prepared [and] presented to the governing body,
[and all claims shall be] audited and paid in the
same manner and with the same effect as [similar]
claims against the county.

SEC. 19. Section 3 of Chapter 349 of the Statutes of 1873-74, as amended by Chapter 25 of the Statutes of 1939, is amended to read:

Sec. 3. The term of office of directors of the district shall be four years. At the general election for the election of State and county officers to be held next after the effective date of this act and at the general election to be held each fourth year thereafter three directors (who shall hold office for four years after the first Monday in March following their election and until their successors have been elected and qualify) shall be elected.

The directors shall each, within ten days after their election, take the usual oath of office, and at their first meeting shall elect a chairman and a clerk from their number. A majority of the members of the board of directors shall constitute a quorum for the transaction of any business. The board of directors are hereby constituted and declared to be the legal representatives and successors to the Board of Supervisors of Sutter County, in all matters appertaining to Levee District No. 1, and are hereby authorized to take absolute charge, control and possession of all levees, or other works of reclamation, and all property, real and personal, belonging to said district, and to perform all the duties appertaining to said levee district heretofore devolving on said board of supervisors, except as herein provided. All bills and accounts against said levee district, either for contracts or otherwise, shall be presented to the board of directors, and be by them approved and certified to as correct by the clerk of the board, before payment for the same can be made; and the county auditor is hereby required to draw his warrant on the county treasurer for the amount of any account so approved and certified, in the same manner as if ordered by the board of supervisors. All claims and demands against said district shall, before the same are approved and allowed by the board of directors, be itemized and verified in the

~~same-manner-as-claims-against-a-county-are-required~~
~~by-law-to-itemized-and-verified.~~ Each director of
said district shall, before taking office and within
ten days after his election or appointment, file a bond
in the sum of five hundred dollars, with sufficient
sureties, conditioned for the faithful performance of
his official duties, said bond to be approved by the
judge of the superior court of said Sutter County and
to be filed in the office of the county clerk of said
county. The board of directors of said district shall,
in addition to the duties now required of them by law,
keep all necessary and proper books of account in which
shall be entered all receipts and expenditures, with
the source and nature of the same, for or on behalf of
said district, and shall keep a minute book in which
shall be entered the proceedings of each meeting of said
board. The books and accounts of the district shall be
experted once a year and the said board shall annually
publish, in a newspaper printed and published in said
district, a complete statistical report showing in de-
tail the financial transactions for and on behalf of
the district for the preceding year and the financial
condition of the district. The board shall keep an
office in said district for the transaction of the
business thereof, and all books, maps, records, papers
and contracts relating to the affairs of the district

shall at all times be open to the inspection of the taxpayers of the district and all persons interested therein. The board shall hold regular meetings on the second Monday of each and every month and special meetings may be held at any time, all of the members of the board being present; or special meetings may be ordered by a majority of the board by an order in writing signed by the members calling such meeting. At least one day's notice of such special meeting must be given, personally or by mail, to the members not joining in the order. All meetings must be held at the office of the board. No member of the board shall be interested, directly or indirectly, in any property

purchased for the use of the district, nor in the purchase or sale of any property belonging to the district, nor in any contract made by the board, or other person, on behalf of the district, for the construction or repair of any levee or other improvement for the district. The board shall annually cause to be prepared, and shall adopt, plans and specifications of all necessary repairs to the levees of said district and of any new levees to be constructed and all other works of improvement for the benefit of the district, and shall divide such work into convenient sections. Said plans and specifications shall be filed in the office of the board not later than the first day of

July of each year and shall be subject to inspection by any person interested therein for at least two weeks prior to the letting of any contract for work in accordance with such plans and specifications. If the cost of repair or construction in any one of said sections will exceed the sum of five hundred dollars the board must, not later than the first day of July in each year, give notice by publication at least once a week for two consecutive weeks in one or more newspapers printed and published in said Sutter County, that sealed proposals will be received and opened at the office of said board, at a time in said notice specified, for the construction of repairs, new levees and other

works of improvement in each separate section of said work, and for the whole work, in accordance with said plans and specifications. At the time and place specified in said notice the board shall publicly open said bids and let the contract or contracts to the lowest responsible bidder or bidders; provided, however, that the board may reject any and all bids. If any or all such bids are rejected the board shall immediately readvertise for bids, as in the first instance, for such work as has not been let and upon the opening and consideration of such new bids the

board shall have the right to reject any or all of them and have such work done by day's work. Every person, firm or corporation to whom a contract shall be awarded shall enter into a bond with sufficient sureties, to be approved by the board, in a sum equal to one-half of the contract price, conditioned for the faithful performance of said contract in accordance with said plans and specifications. In cases of great emergency the board may, by the unanimous consent of all the members, proceed at once to replace or repair any and all levees in the district without notice.

In case of vacancy in the office of any director or directors of said district by reason of death, resignation or other cause (whether the same shall occur before or after the effective date of this act),

the board of supervisors of Sutter County shall have power to fill the same by appointment. The person or persons so appointed to fill such vacancy or vacancies shall hold office until the first Monday in March following the next election in the district at which directors are to be elected and until his or their successor or successors have been elected and qualify.

SEC. 20. Section 3.1 is added to Chapter 349 of the Statutes of 1873-74, to read:

Sec. 3.1. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county. The county auditor shall draw his warrant on the county treasurer for the amount of any claim allowed in whole or in part in the same manner as if ordered by the board of supervisors.

SEC. 21. Section 11 of the Lower San Joaquin Levee District Act is amended to read:

Sec. 11. Claims for money or damages against the district shall-be-presented,-allowed,-audited-and-paid as-are are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall

be] audited and paid in the same manner and with the same effect as [similar] claims against the County of Merced,--except-that-all-claims-must-be-presented-to and-allowed-by-the-board. For the purposes of this section the County Auditor and County Treasurer of Merced County are ex officio the auditor and treasurer of the district. Any reasonable and necessary expenses actually incurred by Merced County in carrying out any of the provisions of this act relating to the district shall be paid out of the funds of the district applicable thereto.

SEC. 22. Section 53 of the Montalvo Municipal Improvement District Act is amended to read:

Sec. 53. The district may issue warrants on any moneys with the county treasurer in payment of district obligations. The warrants shall be registerable as provided for county warrants when not paid for want of funds. Demands-allowed-by-the-board-shall-be prepared,-presented,-and-audited-in-the-same-manner-as demands-upon-the-funds-of-the-county,-but Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such

claims shall be prepared [and] presented to the governing body [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county. All claims shall in every respect be free of the limitation of any budget laws.

SEC. 23. Section 9 of Chapter 201 of the Statutes of 1895 is amended to read:

Section 9. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereafter. ~~All-claims, as-well-for-the-land-and-improvements-taken-or-damaged as-for-the-charges-and-expenses,-shall-be-paid-as-are other-claims-against-the-county-and-upon-order-of-the board-of-supervisors-and-the-claims-shall-be-itemized in-the-same-manner-as-are-other-claims-against-the county.~~ Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county.

SEC. 24. Section 53 of the Solvang Municipal Improvement District Act is amended to read:

Sec. 53. The district may issue warrants in payment of district obligations. The warrants shall be registerable as provided for county warrants when not paid for want of funds. ~~Demands-allowed-by-the board-shall-be-prepared,-presented,-and-audited-in the-same-manner-as-demands-upon-the-funds-of-the county,-but~~ Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body. [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county. All claims shall in every respect be free of the limitation of any budget law.

SEC. 25. Section 19 of the Storm-Water District Act of 1909 is amended to read:

19. All monies paid upon such assessments, either by property owners or by the county or counties affected, shall be placed in the county treasury of the county in which such storm-water district was

organized, to the credit of a special fund to be known as the _____ storm-water improvement fund; shall be used only to pay the expense and cost of constructing the improvements described in the map, plans and specifications adopted by the Board of Trustees. Any surplus remaining after the construction thereof shall be paid into the current expense fund. All payments from said fund shall be made upon claims prepared in the manner required by Section 19.1. ~~law-or-the-preparation of-claims-against-a-county,-and-first-presented-to-the Board-of-Trustees-of-said-district-and-by-them-approved, and-thereafter-presented-and-called-as-claims-against the-county-and-approved-by-the-Board-of-Supervisors-of said-county,-and-upon-a-warrant-drawn-by-the-auditor of-said-county-upon-the-order-of-said-Board-of Supervisors,-in-the-same-manner-as-other-claims-upon the-county-treasury.~~

(13) [Staff proposes elimination of double-bracketed material as inconsistent with claims statute and liable to be confusing]

SEC. 26. Section 19.1 is added to the Storm-Water District Act of 1909, to read:

19.1. Claims for money or damages against the district are governed by the provisions of Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein [[or in this section]]. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such

claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county [[,except as provided in this section]].

For the purposes of the claims procedures required by this section, the board of supervisors of the county in which the storm-water district was organized shall be deemed the governing body of the district, and payments of claims allowed in whole or in part by said board of supervisors shall be paid upon a warrant drawn by the auditor of the said county upon the order of said board in the same manner as claims upon the county treasury.

[[In addition to other requirements imposed by law with respect to claims, all claims shall before presentation to the board of supervisors of said county be first presented to the board of trustees of the storm-water district and by them approved or rejected in whole or in part. The board of supervisors may not approve a claim or any part thereof which has been rejected by the board of trustees; but if the board of supervisors finds that a claim or any part thereof which has been approved by the board of trustees is not a proper charge against the district or its funds, the board of supervisors may reject said claim in whole or in part.]]

12/1/58
(37(L))

SEC. 27. Section 4817 of the Health & Safety Code is repealed.

SEC. 28. Section 4817 is added to the Health & Safety Code to read:

4817. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county.

SEC. 29. Section 5617 of the Health & Safety Code is repealed.

SEC. 30. Section 5617 is added to the Health & Safety Code to read:

5617. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county.

SEC. 31. Section 6096 of the Health & Safety Code is repealed.

SEC. 32. Section 6096 is added to the Health & Safety Code to read:

6096. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county.

SEC. 33. Section 29 of Chapter 1275 of the Statutes of 1949 is repealed.

SEC. 34. Section 29 is added to Chapter 1275 of the Statutes of 1949 to read:

29. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid in the same manner and with the same effect as [similar] claims against the county.

SEC. 35. Section 30 of Chapter 1617 of the Statutes of 1951 is repealed.

SEC. 36. Section 30 is added to Chapter 1617 of the Statutes of 1951 to read:

30. Claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid, in the same manner and with the same effect as [similar] claims against the county.

SEC. 37. Section 20 of Chapter 518 of the Statutes of 1957 is repealed.

SEC. 38. Section 20 is added to Chapter 518 of the Statutes of 1957 to read:

20. Claims for money or damages against the agency are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared [and] presented to the governing body, [and all claims shall be] audited and paid, in the same manner and with the same effect as [similar] claims against the county.

SEC. 39. Section 31 of Chapter 166 of the Statutes of 1955 is repealed.

14 SEC. 40. Section 31 is added to Chapter 166 of the Statutes of 1955 to read:

31. [Standard provision]

SEC. 41. Section 31 of Chapter 939 of the Statutes of 1945 is repealed.

SEC. 42. Section 31 is added to Chapter 939 of the Statutes of 1945 to read:

31. [Standard provision]

SEC. 43. Section 34 of Chapter 1544 of the Statutes of 1951 is repealed.

SEC. 44. Section 34 is added to Chapter 1544 of the Statutes of 1951 to read:

34. [Standard provision]

SEC. 45. Section 14.5 of Chapter 755 of the Statutes of 1915 is repealed.

SEC. 46. Section 14.5 is added to Chapter 755 of the Statutes of 1915 to read:

14.5. [Standard provision]

SEC. 47. Section 29 of Chapter 666 of the Statutes of 1953 is repealed.

SEC. 48. Section 29 is added to Chapter 666 of the Statutes of 1953 to read:

29. [Standard provision]

SEC. 49. Section 8 of Chapter 995 of the Statutes of 1949 is repealed.

SEC. 50. Section 8 is added to Chapter 995 of the Statutes of 1949 to read:

8. [Standard provision]

SEC. 51. Section 30 of Chapter 699 of the Statutes of 1947 is repealed.

SEC. 52. Section 30 is added to Chapter 699 of the Statutes of 1947 to read:

30. [Standard provision]

SEC. 53. Section 8 of Chapter 1771 of the Statutes of 1953 is repealed.

SEC. 54. Section 8 is added to Chapter 1771 of the Statutes of 1953 to read:

8. [Standard provision]

SEC. 55. Section 30 of Chapter 1449 of the Statutes of 1951 is repealed.

SEC. 56. Section 30 is added to Chapter 1449 of the Statutes of 1951 to read:

30. [Standard provision]

SEC. 57. Section 15 of Chapter 1122 of the Statutes of 1945 is repealed.

SEC. 58. Section 15 is added to Chapter 1122 of the Statutes of 1945 to read:

15. [Standard provision]

SEC. 59. Section 8.1 of Chapter 10 of the Statutes of the First Executive Session of 1952 is repealed.

SEC. 60. Section 8.1 is added to Chapter 10 of the Statutes of the First Executive Session of 1952 to read:

8.1. [Standard provision - use "agency" instead of "district"]

SEC. 61. Section 34 of Chapter 1598 of the Statutes of 1953 is repealed.

SEC. 62. Section 34 is added to Chapter 1598 of the Statutes of 1953 to read:

34. [Standard provision]

SEC. 63. Section 30 of Chapter 1294 of the Statutes of 1945 is repealed.

SEC. 64. Section 30 is added to Chapter 1294 of the Statutes of 1945 to read:

30. [Standard provision]

SEC. 65. Section 31 of Chapter 1057 of the Statutes of 1955 is repealed.

SEC. 66. Section 31 is added to Chapter 1057 of the Statutes of 1955 to read:

31. [Standard provision]

SEC. 67. Section 8.1 of Chapter 1501 of the Statutes of 1945 is repealed.

SEC. 68. Section 8.1 is added to Chapter 1501 of the Statutes of 1945 to read:

8.1. [Standard provision - use "agency" instead of "district"]

SEC. 69. Section 30 of Chapter 1405 of the Statutes of 1951 is repealed.

SEC. 70. Section 30 is added to Chapter 1405 of the Statutes of 1951 to read:

30. [Standard provision]

SEC. 71. Section 154 of Chapter 1489 of the Statutes of 1955 is repealed.

SEC. 72. Section 154 is added to Chapter 1489 of the Statutes of 1955 to read:

154. [Standard provision]

SEC. 73. Section 8.1 of Chapter 1656 of the Statutes of 1951 is repealed.

SEC. 74. Section 8.1 is added to Chapter 1656 of the Statutes of 1951 to read:

8.1. [Standard provision]

SEC. 75. Section 8 of Chapter 994 of the Statutes of 1949 is repealed.

SEC. 76. Section 8 is added to Chapter 994 of the Statutes of 1949 to read:

8. [Standard provision]

SEC. 77. Section 13 of Chapter 44 of the Statutes of the Fourth Executive Session of 1944 is repealed.

SEC. 78. Section 13 is added to Chapter 44 of the Statutes of the Fourth Executive Session of 1944 to read:

13. [Standard provision]

SEC. 79. Section 8 of Chapter 1657 of the Statutes of 1951 is repealed.

SEC. 80. Section 8 is added to Chapter 1657 of the Statutes of 1951 to read:

8. [Standard provision]

SEC. 81. Sections 61628, 61630 and 61631 of the Government Code are repealed.

SEC. 82. Section 61628 is added to the Government Code to read:

[Material in brackets proposed by Staff]

61628. All claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. [Claims not governed thereby or by other statutes or by regulations authorized by law and expressly applicable to such claims shall be presented, /audited and paid as may be provided in regulations adopted by the district.]

16
and all
claims
shall be

SEC. 83. Article 5a (commencing at Section 12830) of Chapter 6 of Division 6 of the Public Utilities Code is repealed.

SEC. 84. Article 5a is added to the Public Utilities Code to read:

Article 5a Claims

12830. [Same as Section 82]

SEC. 85. Sections 16682, 16683, 16684, 16685 and 16686 of the Public Utilities Code are repealed.

SEC. 86. Section 16682 is added to the Public

Utilities Code to read:

16682. [Same as Section 82]

SEC. 87. Article 6 of Chapter 6 of Part 2 of Division 10 of the Public Utilities Code is repealed.

SEC. 88. Article 6 is added to the Public Utilities Code to read:

Article 6. Claims

29060. [Same as Section 82]

SEC. 89. Sections 22727, 22728 and 22729 of the Water Code are repealed.

SEC. 90. Section 22727 is added to the Water Code to read:

22727. [Same as Section 82]

SEC. 91. Sections 31084, 31085, 31086 and 31087 of the Water Code are repealed.

SEC. 92. Section 31084 is added to the Water Code to read:

31084. [Same as Section 82]

SEC. 93. Sections 35752, 35753 and 35754 of the Water Code are repealed.

SEC. 94. Section 35752 is added to the Water Code to read:

35752. [Same as Section 82]

SEC. 95. Section 6.1 of Chapter 429 of the Statutes of 1927 is repealed.

SEC. 96. Section 6.1 is added to Chapter 429 of the Statutes of 1927 to read:

6.1. [Same as Section 82]

SEC. 97. Section 20 of Chapter 671 of the Statutes of 1911 is repealed.

SEC. 98. Section 20 is added to Chapter 671 of the Statutes of 1911 to read:

20. [Same as Section 82]

SEC. 99. Article 5 is added to Chapter 10 of Division 10 of the Education Code, to read:

Article 5. Claims

[Material
in
brackets
proposed
by Staff]

17

and all
clauses
shall be

21658. All claims for money or damages against the district are governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code, except as provided therein. [Claims not governed thereby or by other statutes or regulations authorized by law and expressly applicable to such claims shall be presented, audited and paid as may be provided in regulations adopted by the district.]

SEC. 100. Article 2.5 is added to Chapter 4 of Division 11 of the Education Code, to read:

Article 2.5. Claims

22360. [Same as Section 99]

SEC. 101. Article 3.5 is added to Chapter 5 of Division 11 of the Education Code, to read:

Article 3.5. Claims

22680. [Same as Section 99]

SEC. 102. Article 8.5 is added to Chapter 6 of Division 11 of the Education Code, to read:

Article 8.5. Claims

22980. [Same as Section 99]

SEC. 103. Chapter 4 is added to Part 1.5 of Division 8 of the Harbors and Navigation Code, to read:

Chapter 4. Claims

5790. [Same as Section 99]

SEC. 104. Chapter 3.5 is added to Part 2 of Division 8 of the Harbors and Navigation Code, to read:

Chapter 3.5. Claims

5905. [Same as Section 99]

SEC. 105. Chapter 3.5 is added to Part 3 of Division 8 of the Harbors and Navigation Code, to read:

Chapter 3.5. Claims

6095. [Same as Section 99]

SEC. 106. Article 3 is added to Chapter 5 of Part 5 of Division 8 of the Harbors and Navigation Code, to read:

Article 3. Claims

6680. [Same as Section 99]

SEC. 107. Section 954 is added to the Health and Safety Code, to read:

954. [Same as Section 99]

SEC. 108. Article 5.5 is added to Chapter 5 of Division 3 of the Health & Safety Code, to read:

Article 5.5. Claims

2320. [Same as Section 99]

SEC. 109. Article 4.5 is added to Chapter 8 of Division 3 of the Health & Safety Code, to read:

Article 4.5. Claims

2880. [Same as Section 99]

SEC. 110. Article 4.5 is added to Chapter 1 of Part 2 of Division 5 of the Health & Safety Code, to read:

Article 4.5. Claims

4130. [Same as Section 99]

SEC. 111. Article 5.5 is added to Chapter 1.5 of Part 2 of Division 5 of the Health & Safety Code, to read:

Article 5.5. Claims

4185.1. [Same as Section 99]

SEC. 112. Section 4665.6 is added to the Health & Safety Code, to read:

4665.6. [Same as Section 99]

SEC. 113. Article 5.5 is added to Chapter 9 of Part 3 of Division 3.5 of the Health & Safety Code, to read:

Article 5.5. Claims

5745. [Same as Section 99]

SEC. 114. Article 8 is added to Chapter 7 of Part 1 of Division 6 of the Health & Safety Code, to read:

Article 8. Claims

6805. [Same as Section 99]

SEC. 115. Article 5 is added to Chapter 9 of Part 4 of Division 8 of the Health & Safety Code, to read:

Article 5. Claims

9010. [Same as Section 99]

SEC. 116. Article 6.5 is added to Chapter 1A of Part 3 of Division 12 of the Health & Safety Code, to read:

Article 6.5. Claims

14363. [Same as Section 99]

SEC. 117. Article 7.1 is added to Chapter 2 of Part 3 of Division 12 of the Health & Safety Code, to read:

Article 7.1. Claims

14488. [Same as Section 99]

SEC. 118. Article 4.1 is added to Chapter 1 of Part 1 of Division 14 of the Health & Safety Code, to read:

Article 4.1. Claims

20115. [Same as Section 99]

SEC. 119. Article 8 is added to Chapter 2 of Division 20

of the Health & Safety Code, to read:

Article 8. Claims

24343. [Same as Section 99]

SEC. 120. Article 16 is added to Chapter 2.5 of Division 20 of the Health & Safety Code, to read:

Article 16. Claims

24374. [Same as Section 99]

SEC. 121. Chapter 7 is added to Division 23 of the Health & Safety Code, to read:

Chapter 7. Claims

32492. [Same as Section 99]

SEC. 122. Article 6 is added to Chapter 2 of Part 1 of Division 24 of the Health & Safety Code, to read:

Article 6. Claims

33340. [Same as Section 99]

SEC. 123. Article 6 is added to Chapter 1 of Part 2 of Division 24 of the Health & Safety Code, to read:

Article 6. Claims

34380. [Same as Section 99--use word "authority" instead of "district"]

SEC. 124. Article 4 is added to Chapter 3 of Part 8 of Division 2 of the Labor Code, to read:

Article 4. Claims

2190. [Same as Section 99]

SEC. 125. Article 2.5 is added to Chapter 1 of Division 6 of the Military and Veterans Code, to read:

Article 2.5. Claims

1209. [Same as Section 99]

SEC. 126. Article 3 is added to Chapter 4 of Division 9 of the Public Resources Code, to read:

Article 3. Claims

9420. [Same as Section 99]

SEC. 127. Article 1.5 is added to Chapter 7 of Division 10 of the Public Resources Code, to read:

Article 1.5. Claims

11520. [Same as Section 99]

SEC. 128. Chapter 4.5 is added to Part 2 of Division 9 of the Public Utilities Code, to read:

Chapter 4.5. Claims

22601. [Same as Section 99]

SEC. 129. Article 9 is added to Chapter 6 of Part 1 of Division 10 of the Public Utilities Code, to read:

Article 9. Claims

25951. [Same as Section 99]

SEC. 130. Chapter 9.5 is added to Part 2 of Division 9 of the Streets & Highways Code, to read:

Chapter 9.5. Claims

8230. [Same as Section 99]

SEC. 131. Chapter 11.5 is added to Part 4 of Division 14 of the Streets & Highways Code, to read:

Chapter 11.5. Claims

19190. [Same as Section 99]

SEC. 132. Chapter 15.5 is added to Part 1 of Division 16 of the Streets & Highways Code, to read:

Chapter 15.5. Claims

25360. [Same as Section 99]

SEC. 133. Chapter 13.5 is added to Part 2 of Division 16 of the Streets & Highways Code, to read:

Chapter 13.5. Claims

26225. [Same as Section 99]

SEC. 134. Section 31867 is added to the Streets & Highways Code, to read:

31867. [Same as Section 99]

SEC. 135. Section 33550 is added to the Streets & Highways Code, to read:

33550. [Same as Section 99 - use word "authority" instead of "district"]

SEC. 136. Section 35707 is added to the Streets & Highways Code, to read:

35707. [Same as Section 99]

SEC. 137. Section 8991 is added to the Water Code, to read:

8991. [Same as Section 99]

SEC. 138. Section 44457 is added to the Water Code, to read:

44457. [Same as Section 99]

SEC. 139. Article 4.5 is added to Chapter 2 of Part 1 of Division 15 of the Water Code, to read:

Article 4.5. Claims

50145. [Same as Section 99]

SEC. 140. Chapter 4 is added to Part 4 of Division 16 of the Water Code, to read:

Chapter 4. Claims

55720. [Same as Section 99]

SEC. 141. Section 20a is added to Chapter 808 of the Statutes of 1927 to read:

20a. [Same as Section 99]

SEC. 142. Section 135.5 is added to Chapter 1253 of the Statutes of 1941 to read:

135.5. [Same as Section 99]

SEC. 143. Section 9.5 is added to Chapter 1532 of the Statutes of 1953 to read:

9.5. [Same as Section 99]

SEC. 144. Section 15.5 is added to Chapter 545 of the Statutes of 1943 to read:

15.5. [Same as Section 99 - use word "authority" instead of "district"]

SEC. 145. Section 12.5 is added to Chapter 158 of the Statutes of 1885 to read:

12.5. [Same as Section 99]

SEC. 146. Section 49.5 is added to Chapter 238 of the Statutes of 1903 to read:

49.5. [Same as Section 99]

SEC. 147. Section 10.5 is added to Chapter 641 of the Statutes of 1931 to read:

10.5. [Same as Section 99]

SEC. 148. Section 11.5 is added to Chapter 503 of the Statutes of 1955 to read:

11.5. [Same as Section 99]

SEC. 149. Section 8.5 is added to Chapter 99 of the Statutes of 1913, to read:

8.5. [Same as Section 99]

SEC. 150. Section 15.1 is added to Chapter 52 of the Statutes of 1941 to read:

15.1. [Same as Section 99]

SEC. 151. Section 3.1 is added to Chapter 723 of the Statutes of 1927 to read:

3.1. [Same as Section 99]

SEC. 152. Section 20.5 is added to Chapter 924 of the Statutes of 1933 to read:

20.5. [Same as Section 99]

SEC. 153. Section 29.5 is added to Chapter 452 of the Statutes of 1923 to read:

29.5. [Same as Section 99]

SEC. 154. Section 9.5 is added to Chapter 63 of the Statutes of 1880 to read:

9.5. [Same as Section 99]

SEC. 155. Section 46.5 is added to Chapter 25 of the Statutes of 1907 to read:

46.5. [Same as Section 99]

SEC. 156. Section 8.5 is added to Chapter 361 of the Statutes of 1915 to read:

8.5. [Same as Section 99]

SEC. 157. Section 8 is added to Chapter 73 of the Statutes of 1939 to read:

8. [Same as Section 99]

SEC. 158. Section 17.5 is added to Chapter 1372 of the Statutes of 1945 to read:

17.5. [Same as Section 99]

SEC. 159. Section 48 is added to Chapter 1289 of the Statutes of 1955 to read:

48. [Same as Section 99 - use word "authority" instead of "district")]

SEC. 160. Section 2.5 is added to Chapter 17 of the Statutes of the First Executive Session of 1952 to read:

2.5. [Same as Section 99]

SEC. 161. Section 34.5 is added to Chapter 91 of the Statutes of 1927 to read:

34.5. [Same as Section 99]

SEC. 162. Section 21.1 is added to Chapter 166 of the Statutes of 1929, as reenacted by Chapter 1020 of the Statutes of 1931, to read:

21.1. [Same as Section 99]

An act to repeal Article 2 of Chapter 6 of Division 4 of Title 1, Division 4 of Title 2, and Section 53053 of the Government Code, to add Chapters 1 and 3 to Division 3.5 of Title 1 of the Government Code, and to amend Section 53052 of the Government Code, relating to claims against the State, local public entities and public officers and employees.

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

SECTION 1. Article 2 of Chapter 6 of Division 4 of Title 1, Division 4 of Title 2, and Section 53053 of the Government Code are hereby repealed.

SEC. 2. Chapter 1 is added to Division 3.5 of Title 1 of the Government Code, to read:

CHAPTER 1. CLAIMS AGAINST THE STATE

Article 1. General

600. As used in this chapter, "board" means the State Board of Control.

601. Claims for expenses of either house of the Legislature or members or committees thereof, and claims for official salaries fixed

by statute, are exempt from this article and Section 13920.

602. Any person having a claim against the State for which appropriations have been made, or for which state funds are available, may present it to the Controller in the form and manner prescribed by the general rules and regulations adopted by the board for the presentation and audit of claims.

603. The Controller shall not draw his warrant for any claim until it has been audited by him in conformity with law and the general rules and regulations adopted by the board, governing the presentation and audit of claims. Whenever the Controller is directed by law to draw his warrant for any purpose, the direction is subject to this section, unless it is accompanied by a special provision exempting it from this section.

604. If the Controller approves a claim he shall draw his warrant for the amount approved in favor of the claimant.

605. If he disapproves a claim, he shall file it and a statement of his disapproval and his reasons with the board as prescribed in the rules and regulations of the board.

606. The Controller shall not entertain for a second time a claim against the State once rejected by him or by the Legislature unless such facts are subsequently presented to the board as in suits between individuals would furnish sufficient ground for granting a new trial.

607. Any person who is aggrieved by the disapproval of a claim by the Controller, may appeal to the board. If the board finds that facts are presented justifying such action, the Controller shall reconsider his rejection of the claim.

608. After final rejection of a claim by the Controller following reconsideration any person interested may appeal to the Legislature by filing with the board a notice of appeal. Upon receipt of such notice the board shall transmit to the Legislature the rejected claim, all papers accompanying it, and a statement of the evidence taken before the board.

609. Whenever a governmental agency of the United States, in the collection of taxes or amounts owing to it, is authorized by federal law to levy administratively on credits owing to a debtor, it may avail itself of the provisions of this section and claim credits owing by the State to such debtor, in manner as follows:

It shall file a certification of the facts with the state department, board, office or commission owing such credit to said debtor prior to the time said state agency presents the claims of such debtor therefor to the State Controller or to the State Personnel Board. Said state agency in presenting the claim of the debtor shall note thereon the fact of the filing of such certificate and shall also note any amounts owed by the debtor to the State by reason of advances or for any other purpose.

Subject to the provisions of Section 12419.5 of this code, the State Controller shall issue his warrant payable to the United States Treasurer for the net amount due the debtor, after offsetting for any amounts advanced to the debtor or by him owing to the State, or as much thereof as will satisfy in full the amount owing by the debtor to the United States as so certified; any balance shall be paid to the debtor.

Article 2. Filing With State Board of Control

620. There shall be presented to the board and it shall audit claims against the State for which settlement is provided by law but for which:

- (a) No appropriation has been made,
- (b) No fund is available, or
- (c) An appropriation or fund has been exhausted.

Upon approval of such a claim by unanimous vote of the board, it shall with the consent of the Governor be transmitted to the Legislature with a brief statement of the reasons for approval.

621. Any person having a claim against the State, the settlement of which is not otherwise provided for by law, shall present it to the board at least four months before the meeting of the Legislature, accompanied by a statement showing the facts constituting the claim, and verified in the same manner as complaints in civil actions. Notice of the time and place of hearing shall be mailed to the claimant at least 15

days prior to the date set for final action by the board.

622. At the time designated the board shall examine and adjust such claims. It may hear evidence for and against them and, with the approval of the Governor, report to the Legislature such facts and recommendations concerning them as it deems proper. In making recommendations the board may state and use any official or personal knowledge which any member may have touching any claim.

623. Upon the allowance by the board of all or part of a claim arising under Section 400 of the Vehicle Code, and the execution and presentation of documents in such form as the board prescribes, which discharge the State of all liability under the claim, the claim so allowed shall be paid in accordance with law out of money appropriated or collected for payment of such claims.

624. If the State elects to insure its liability, the board may automatically deny any claim covered by insurance.

Article 3. Actions

640. This chapter is not applicable to actions on claims for the taking or damaging of private property for public use, within the meaning of Section 14 of Article I of the Constitution, which were pending prior to September 13, 1941.

641. Any person who has a claim against the State (1) on express contract, (2) for negligence, or (3) for the taking or damaging of private property for public use within the meaning of Section 14 of Article I of the Constitution, shall present the claim to the board in accordance with Section 621. If the claim is rejected or disallowed by the board, the claimant may bring an action against the State on the claim and prosecute it to final judgment, subject to the conditions prescribed by this article.

642. Except as otherwise provided in this article, the rules of practice in civil actions apply to all actions brought under this article.

643. A claim arising under Section 400 of the Vehicle Code shall be presented to the board within one year after the claim first arose or accrued. An action on such a claim shall be brought either within the time prescribed by the Code of Civil Procedure within which such an action may be brought or within six months after the claim is rejected or disallowed in whole or in part.

644. A claim not arising under Section 400 of the Vehicle Code shall be presented to the board within two years after the claim first arose or accrued. An action on such a claim shall be brought within six months after the claim is rejected or

disallowed in whole or in part.

645. An action may not be maintained on a portion of a claim arising under Section 400 of the Vehicle Code, but if the amount allowed is not accepted in full settlement of the claim and an action is brought, it shall be brought on the entire claim and the allowance is ineffective. If any other claim is rejected or is allowed only in part, an action may be maintained only on the portion of the claim rejected or disallowed.

646. Claims of a minor or insane person, a person imprisoned on a criminal charge or undergoing execution of sentence of a criminal court, a married woman if her husband is a necessary party with her in commencing action thereon, or an incompetent person shall be presented to the board as prescribed by this article within two years after the disability ceases. An action on such a claim shall be brought within six months after the claim is rejected or disallowed in whole or in part by the board.

647. At the time of filing the complaint in any action against the State, the plaintiff shall file therewith an undertaking in such sum, but not less than five hundred dollars, as a judge of the court shall fix, with two sufficient sureties, to be approved by a judge of the court. The undertaking shall be conditioned upon payment by the plaintiff of all costs incurred by the State in the suit, including a reasonable counsel fee to be fixed by the court, if plaintiff fails to recover judgment in the action.

648. In actions for the taking or damaging of private property for public use within the meaning of Section 11 of Article I of the Constitution on claims arising out of work done by the Department of Public Works:

(a) Service of summons shall be made on the Director of Public Works.

(b) The defense shall be conducted by the attorney for the department.

649. Except actions in which service is required to be made on the Director of Public Works:

(a) Service of summons shall be made on the Governor and Attorney General.

(b) The Attorney General shall defend all actions on claims against the State.

649.5 Notwithstanding the provisions of Sections 648 and 649, in actions for the taking or damaging of private property for public use within the meaning of Section 14 of Article I of the Constitution on claims arising out of work done by the Department of Water Resources:

(a) Service of summons shall be made on the Director of Water Resources and the Attorney General.

(b) The defense shall be conducted by the legal counsel of the department, if authorized by the Attorney General pursuant to Section 127 of the Water Code; otherwise the defense shall be conducted by the Attorney General.

650. The proper court for trial of actions for the taking or damaging of private property for public use is a court of competent jurisdiction in the county in which the property is situate.

Upon written demand of the Attorney General made on or before answering, the place of trial in other actions shall be changed to Sacramento County.

651. If judgment is rendered for the plaintiff, it shall be for the legal amount actually found due from the State to the plaintiff, with legal interest from the time the claim or obligation first arose or accrued, and without costs.

652. Without presentation to or approval by the Board, the Controller shall draw his warrant for the payment of any judgment against the State upon a claim arising under Section 400 of the Vehicle Code upon money appropriated by the Legislature or collected from special funds for the payment of such claims.

653. The Controller shall draw his warrant for the payment of any other judgments against the State whenever a sufficient appropriation for such payment exists. Claims upon such judgments are exempt from Section 603.

654. The Governor shall report to the Legislature, at each session, all judgments against the State upon claims not arising under Section 400 of the Vehicle Code and not theretofore reported.

SEC. 3. Chapter 3 is added to Division 3.5 of
the Government Code, to read:

CHAPTER 3. PRESENTATION OF CLAIM AS PREREQUISITE
TO SUIT AGAINST PUBLIC OFFICER OR
EMPLOYEE

800. As used in this chapter:

- (a) "Person" includes any pupil attending the public schools of any school or high school district.
- (b) In addition to the definition of public property as contained in Section 1951, "public property" includes any vehicle, implement or machinery whether owned by the State, a school district, county, or municipality, or operated by or under the direction, authority or at the request of any public officer.
- (c) "Officer" or "officers" includes any deputy, assistant, agent or employee of the State, a school district, county or municipality acting within the scope of his office, agency or employment.

801. Whenever it is claimed that any person has been injured or any property damaged as a result of the negligence or carelessness of any public officer or employee occurring during the course of his service or employment or as a result of the dangerous or defective condition of

any public property, alleged to be due to the negligence or carelessness of any officer or employee, within 90 days after the accident has occurred a verified claim for damages shall be presented in writing and filed with the officer or employee and the clerk or secretary of the legislative body of the school district, county, or municipality, as the case may be. In the case of a State officer the claim shall be filed with the officer and the Governor.

802. The claim shall specify the name and address of the claimant, the date and place of the accident and the extent of the injuries or damages received.

SEC. 4. Section 53052 of the Government Code is amended to read:

53052. When it is claimed that a person has been injured or property damaged as a result of the dangerous or defective condition of public property, a verified written claim for damages shall be ~~filed with the clerk or secretary of the legislative body of the local agency within ninety days after the accident occurred,~~ presented in conformity with and shall be governed by Chapter 2 (commencing with Section 700) of Division 3.5 of Title 1 of the Government Code.