

Date of Meeting: March 13-14, 1959
Date of Memo: February 25, 1959

Memorandum

SUBJECT: Suggestions received relating to the Claims Statute.

This memorandum summarizes suggestions which we have received (most of which are addressed to Clark Bradley) relating to the Commission's claims statute legislation.

1. From Warren J. Ferguson, Fullerton, California (city attorney for Buena Park, La Puente, Placentia, Santa Fe Springs and Walnut:

- a. Objects to provisions in Sections 712 and 713 that governing body is required to give notice of insufficiency of claim; suggests as alternative requirement that city upon demand by claimant be required to furnish a form which would be in substantial requirement with the provisions of Section 711.
- b. Objects to the last paragraph of Section 716 precluding reconsideration of claim; says too severe on claimant and public body; asserts that governing body should have the right to compromise any claim at any time.
- c. Suggests that Section 720 should be amended to limit application to chief administrative officers of the city; not any employee.

2. From George F. Flewelling, Deputy City Attorney, Glendale:

- a. Suggests that Section 720 should add after "made by any officer, employee or agent of the entity" the words "acting within the scope of his office, agency or employment"; concerned that otherwise a ditch digger would be able to estop the city.

3. From Samuel W. Gardiner (represents two "sixth-class" cities and half a dozen or so other "local public entities":

- a. Objects to Section 715 insofar as provides for petition for leave to present a belated claim; concerned that petition will not be timely heard and much delay involved.
- b. Suggests clarification of Section 716(c) to clarify what it meant by the provision that the governing body may "require" the claimant to accept the amount allowed.

NOTE: This has been taken care of.

- c. Objects to Section 719 on ground that undercuts general purpose of claims statute to apprise the public body of the nature and extent of the claim in time to be properly investigated.

4. From Frank Kostlan, City Attorney, Pasadena:

Suggests deletion of Section 720. Ground, new statute clear with respect to requirements and should not be nullified or weakened by estoppel provision; in any event would delete "implied" and "employee."

5. Thomas Nelson, City Attorney of Mill Valley:

- a. Suggests adding to Section 710 "the claim shall be verified in the manner provided by Section 446 of the Code of Civil Procedure."
- b. Suggests that provision be added that if notice mailed it be by registered or certified mail to preclude false assertion that claim was mailed.
- c. Objects to Section 719 on ground undercuts requirement that claimant inform entity; would permit court during trial to permit amendment upon finding that claimant was free from any fault in claiming less.

6. From John W. Scanlon, City Attorney, Hayward, California:

- a. Would limit to claims for damages only, ground ordinary contracts, claims and administrative purchases from budgeted accounts should not be burdened with requirement of filing a claim.
- b. States that A. B. 406 contains some ambiguities in provisions relating to claims against public officers and employees, viz.

(1) Section 801 applies only to state, school district, county or municipality, whereas Section 803 is broader and in any event writer's understanding is that purpose of law is to make it applicable to all local public entities and their officers and employees.

(2) Section 801 requires verified claim; Section 803 does not.

(3) Suggests definition of "person" in Chapter 3 unnecessary if intended to apply to public officers and employees of all public entities.