Date of Meeting: March 13-14, 1959
Date of Memo: March 5, 1959

Supplementary Memorandum re Suggestions Received

Relating to the Claims Statute

Clark Bradley has forwarded to me several additional communications
which he has received relating to the Commission's claims statute legisla-
tion. I have summarized below only those of the suggestions contained in
these communications which seem to me to raise questions of sufficient
importance to warrant consideration at the March meeting. (I will bring
the original communications with me to the meeting so that if the
Commission desires to have all of them read orally this can be done.)

    1. <u>From John H. Lauten, City Attorney of Fresno, commenting on</u>
<u>A. B. 405</u>:

        a. Suggests reference in Section 703(a) be to "law or ordinance"

        because "law" is frequently interpreted as meaning a state

        statute as opposed to a city ordinance.

        b. Suggests that Sections 714, 716 and 717 all provide for 90-day

        periods on ground that 100-day and 80-day provisions are not

        found anywhere in existing law.

        c. Suggests deletion of subsection (a) of Section 715 on ground

        that child's parent or guardian would be expected to act within

        normal filing period.

        d. Re Section 718(c) states: "Many cities delegate to the city

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manager or chief administrative officer the compromise or

adjustment of small claims [$100-$150] . . . It would be

desirable that the provision permit not only a requirement

of the governing body [that the claimant accept the amount in

settlement of the entire claim] but also a requirement of an

administrative officer authorized to compromise claims . . . ."

e. Re last paragraph of Section 718 suggests deletion of "to

act upon a claim or" on ground that statute gives governing

body full 80 days to act and Section 717 provides for contingency

of inaction.

f. Re Section 719: "This Section nullifies the effect of requir-

ing the amount of loss to be set forth in the claim."

2. From Frank Annibale, City Attorney of Alameda, commenting on

A. B. 405:

a. Suggests constitutional amendment not necessary inasmuch as

courts in construing Sections 53050 et seq. of the Government

Code have determined that these are statewide rather than

local matters; is concerned that as bill is drawn a chartered

city such as Alameda might not be able to take advantage of

the legislation until the constitutional amendment is adopted.

b. Objects to 100 day claim filing provision in Section 714;

would prefer 90 days.

c. Objects to Section 720 because of concern that unauthorized

remark on the part of any city officer, employee or agent in

any setting would invoke an estoppel; feels that "reasonably

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and in good faith" is not a sufficient safeguard, particularly
if the question is one for the jury.

3. <u>From Mr. Roscoe Hollinger, Chief Auditor of Los Angeles County,</u>
<u>commenting on A. B. 405</u>.

See attached copy of letter from Arvo Van Alstyne,
communicating Hollinger's views to us.

4. <u>From Robert G. Cockins, City Attorney, Santa Monica:</u>

    a. Mr. Cockins makes several suggestions relating to
substantive changes in Sections 801-803 of the Government
Code as these would be enacted by A. B. 406. Inasmuch as
we have merely moved these sections to this location
and have decided not to deal with them substantively at
this time, I am not setting Mr. Cockins' comments forth
in this memorandum.

    b. Mr. Cockins has the following comments on A. B. 405:

        (1) He supports the idea embodied in paragraph 718(e)
and believes that the underlying thought should be
made even clearer.

        (2) He objects to the last paragraph of Section 718
insofar as it suggests that a mandamus action
could be brought to compel action on a claim.

        (3) He objects to Section 720 as being too broad and
would limit estoppel to those cases where (a) there
has been a direct representation that no claim is
necessary by the City Attorney, the City Manager,

the chief administrative officer or the mayor, and

(b) there was a conscious misrepresentation with an

intention that the claimant be misled.