

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

Memorandum 4-D

Views of City Attorney of San Francisco

The following views respecting A. B. 405 have been expressed by Mr. Bernard Ward, legislative representative of the City Attorney of San Francisco:

1. That A. B. 405 ought to be concerned only with the presentation of claims and not with the subsequent processing of claims by a public entity. This leads him to believe that Sections 716, 717 and 718 are unnecessary. His principal concern, however, is with the requirement, embodied in Section 712 and 713, that the public entity give notice of defects on a claim on penalty of waiver. Mr. Ward stated that this would require San Francisco to hire a number of attorneys to process claims upon presentation. (He stated that in the week before our conversation some 178 claims had been filed against the city.) (Mr. Neal, representing the Los Angeles City Attorney office, concurred in these views.)

2. He sees no reason for requiring the claimant to forego filing suit for 80 days after presenting the claim.

3. Mr. Ward believes that the claim should be verified because when verified it may be used much more effectively at the trial to impeach the testimony of the claimant.

4. Mr. Ward's strongest opposition is to Section 721 insofar as it would permit suits to be brought for personal injury more than one year after the cause of action arises. He opposes this on the principle that a public entity should be in no different a position as respects the statute of limitations than any other defendant and states that there would be a special problem for entities under Section 721 in cases where there is also a non-entity defendant as to whom the statute would run at an earlier date.

Note: Mr. Ward's objections quite obviously stem from the changes which A. B. 405 would make in San Francisco's present situation. The city does not construe its claim provision to apply to contract claims. It is presently concerned, therefore, only with tort claims and as to them almost exclusively with personal injury claims, most of which arise out of the operations of its municipal railway (and many of which the City Attorney regards as unfounded). As I understand, when a tort claim is received it is simply put in the file and ignored until the time of trial when it may be used either to defeat the claim or to impeach the claimant.