

Meeting
no copy of Perry Taft's
letter available for
attachment
11/7/61

First Supplement to Memorandum No. 45(1961)

Subject: Study No. 52 - Sovereign Immunity

As directed by the Commission, the Chairman of the Commission met with Senator Regan, Chairman of the Senate Fact Finding Committee on Judiciary.

It was tentatively agreed that the Senate Committee would request that the Senate Rules Committee provide the necessary funds so that the Senate Committee can employ a research consultant to make statistical studies in connection with the problem of sovereign immunity.

Senator Regan requested that he be provided with a statement of some of the areas that such statistical studies might cover and the value of the information that might be obtained. The staff does not believe it desirable to take time at the November meeting to discuss this matter; we should devote our available time to the many substantive problems we must solve if we are to make a recommendation to the 1963 Legislature. However, some of the areas of study that might be profitable are indicated below. We will carefully examine the literature in the field after the November meeting to identify the other areas where a statistical study might prove profitable. We will also draw on Professor Van Alstyne for suggestions and comments in framing the statement. Senator Regan recognizes that as we proceed with our study the need for statistical information in certain areas will become evident.

1. Extent to which additional liability of entity is now covered by insurance on personal liability of public officers and employees.

Entities are authorized to insure their public officers and employees. To the extent that such insurance is now in force, the entities have indirectly assumed the additional liability and extension of the liability of the entities would not involve any substantial additional cost.

This information could possibly be collected by the League of California Cities, Association of California Counties, questionnaire directed to sample of cities and counties selected by research consultant or from insurance companies. These groups have indicated their willingness to cooperate. See attached letter from Perry Taft.

2. Experience of school districts so far as insurance and liability are concerned.

Professor Van Alstyne has made some preliminary inquiries that indicate that valuable information is available in the offices of school districts and insurance carriers and rating agencies. The type of information we are talking about here is:

(a) Cost of insurance coverage with respect to non-motor vehicle liability.

(b) Cost of insurance coverage of school district personnel, as compared with insurance coverage for the district itself.

(c) Differences in premium cost of basic coverage as compared with excess coverage.

(d) Premium cost of liability insurance expressed in terms of tax rate and in terms of cost per pupil or cost per district employee.

(e) Relationship between premium cost and liability claims settled or adjudicated.

(f) Relationship of amounts claimed and amounts ultimately paid. This ratio would be of some value in converting the claims filed under the 1961 tort immunity legislation to more realistic amounts.

3. Experience of other public entities so far as insurance and liability is concerned.

Experience, for example, as to insurance carried by Department of Public Works on public officers and employees.

4. The experience in New York and other states.

We have made a preliminary analysis of the New York Court of Claims reports. It appears that a careful and time consuming study will be necessary (probably by someone in New York) to obtain the desired information.

5. The availability and cost of insurance.

This would involve not only a study of California practices but also experience in New York and other states. We already have some information on the experience in New York.

6. Nature of claims being filed against public entities under 1961 tort liability legislation.

Respectfully submitted,

John H. DeMouilly
Executive Secretary