

meeting

10/9/62

Memorandum No. 74(1962)

Subject: Study No. 52(L) - Sovereign Immunity
(Organization of Proposed Division 3.6)

Attached Exhibit I (yellow pages) is a revised outline of proposed Division 3.6. This Exhibit should be helpful to you in considering the various tentative recommendations of the Commission. It will be especially helpful in connection with our consideration of Memorandum No. 69(1962) (relating to claims, actions and judgments).

Respectfully submitted,

John H. DeMouilly
Executive Secretary

10/8/62

EXHIBIT I

DIVISION 3.6

CLAIMS AND ACTIONS AGAINST
PUBLIC ENTITIES AND PUBLIC EMPLOYEES

PART 1. DEFINITIONS

§§ 810-811.4

PART 2. LIABILITY OF PUBLIC ENTITIES AND PUBLIC EMPLOYEES

CHAPTER 1. GENERAL PROVISIONS RELATING TO LIABILITY

Article 1. Liability of Public Entities

§§ 815-817.2

Article 2. Liability of Public Employees

§§ 820-821.8

Article 3. Indemnification of Public Employees

§§ 825-825.6

CHAPTER 2. DANGEROUS CONDITIONS OF PUBLIC PROPERTY

Article 1. General

§§ 830-830.4

Article 2. Liability of Public Entities

§§ 835-835.8

Article 3. Liability of Public Employees

§§ 840-840.8

CHAPTER 3. POLICE AND CORRECTIONAL ACTIVITIES

§§ 845-845.8

CHAPTER 4. FIRE PROTECTION

§§ 850-850.8

CHAPTER 5. MEDICAL, HOSPITAL AND PUBLIC HEALTH ACTIVITIES

§§ 855-855.8

[CHAPTERS 6-20 RESERVED]

CHAPTER 21. TORT LIABILITY UNDER AGREEMENTS BETWEEN PUBLIC ENTITIES

§§ 895-895.8

PART 3. CLAIMS AGAINST PUBLIC ENTITIES

CHAPTER 1. GENERAL

Article 1. Definitions

§ 900. "Board"

§ 901. "Date of accrual of cause of action"

Article 2. General Provisions

§ 905. Claims against local public entities: coverage of and exceptions to Chapters 1 and 2

§ 905.2. Claims against State covered by Chapters 1 and 2

§ 905.4. Causes of action for which no claim required

§ 905.6. Chapters 1 and 2 not exclusive means for presentation of claims to Legislature

§ 905.8. Part 3 creates no liability

CHAPTER 2. PRESENTATION AND CONSIDERATION OF CLAIMS

Article 1. General

§ 910. Contents of claim

§ 910.2. Claim to be signed; exception

§ 910.4. Claims forms provided by board

§ 910.6. Amendment of claim

§ 910.8. Notice of insufficiency of claim

§ 911. Waiver of insufficiency by failure to notify

§ 911.2. Time for presentation of claim

§ 911.4. Application to entity to file late claim

§ 911.6. Action by board upon application

§ 911.8. Notice of board's action upon application

§ 912. Petition to court for leave to file late claim

§ 912.2. Time when late claim deemed to be presented

- § 912.4. Time allowed for action by board on claim
- § 912.6. Action by board of local public entity
- § 912.8. Action by State Board of Control
- § 913. Automatic denial by State Board of Control of insured claim
- § 913.2. Notice of action on claim

Article 2. Delivery of Claims, Applications, etc.

- § 915. Manner of presenting claim, amendment to claim or application to file late claim
- § 915.2. Presentation by mail of claim, amendment, application or notice

CHAPTER 3. PROCEEDINGS TO DETERMINE CONSTITUTIONALITY OF CLAIMS AGAINST THE STATE

- §§ 920-920.8. (no change in existing law)

CHAPTER 4. PRESENTATION OF CLAIMS TO STATE CONTROLLER

- §§ 925-926.8. (no change in existing law)

CHAPTER 5. CLAIMS PROCEDURES ESTABLISHED BY AGREEMENT

- § 930. State
- § 930.2. Local entities

CHAPTER 6. CLAIMS PROCEDURES ESTABLISHED BY LOCAL PUBLIC ENTITIES

- § 935. Procedure for claims excepted from Chapters 1 and 2
- § 935.2. Delegation of authority to claims board
- § 935.4. Delegation of authority to employee

PART 4. ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC EMPLOYEES

CHAPTER 1. GENERAL

- § 940. "Board" defined
- § 941. Part 4 creates no liability
- § 942. Right to compel payment of allowed claim not affected

CHAPTER 2. ACTIONS AGAINST PUBLIC ENTITIES

- § 945. Consent to suit
- § 945.2. Rules of practice applicable
- § 945.4. Claim as prerequisite to suit
- § 945.6. Limitation of actions where claim required
- § 945.8. Limitation of actions where no claim required
- § 946. Claimant's acceptance of amount allowed as bar to action
- § 947. Undertaking for costs
- § 947.2. Costs allowable against plaintiff

CHAPTER 3. ACTIONS AGAINST PUBLIC EMPLOYEES

- § 950. Claim against public employee not required
- § 950.2. Suit against employee barred if suit against entity barred
- § 950.4. When suit against employee not barred even though no claim presented to entity
- § 950.6. Suit against employee may not be maintained until claim rejected by entity
- § 950.8. Local provisions invalid
- § 951. Undertaking for costs
- § 951.2. Costs allowable against plaintiff

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CHAPTER 4. SPECIAL PROVISIONS RELATING TO ACTIONS AGAINST STATE

§ 955. Proper court for trial generally

§ 955.2. Proper court for trial of tort actions

§ 955.4. Service of summons and defense generally

§ 955.6. Service of summons and defense of actions for taking and damaging property by Department of Public Works

§ 955.8. Service of summons and defense of actions for taking and damaging property by Department of Water Resources

PART 5. PAYMENT OF CLAIMS AND JUDGMENTS

CHAPTER 1. COMPROMISE OF CLAIMS AND ACTIONS

- § 960. Settlement of tort claims by state agencies
- § 960.2. Reconsideration of rejected claim by State Board of Control
- § 960.4. Settlement of pending action against the State
- § 960.6. Compromise and settlement of actions against local public entities

CHAPTER 2. PAYMENT OF CLAIMS AND JUDGMENTS AGAINST THE STATE

- § 965. Payment of allowed claim
- § 965.2. Payment of final judgments and settlements
- § 965.4. Governor's report to Legislature

CHAPTER 3. PAYMENT OF TORT JUDGMENTS AGAINST LOCAL PUBLIC ENTITIES

Article 1. General

§§ 970-971.2

Article 2. Funding Judgments with Bonds

§§ 975-978.4

PART 6. INSURANCE COVERAGE FOR LOCAL PUBLIC ENTITIES AND THEIR EMPLOYEES

§§ 990-991.2

PART 7. DEFENSE OF ACTIONS AND PROCEEDINGS BROUGHT AGAINST PUBLIC EMPLOYEES

§§ 995-996.6