

#52

2/1/68

First Supplement to Memorandum 68-11

Subject: Study 52 - Sovereign Immunity

Attached is a copy of Assembly Bill No. 73, 1968 Regular Session. Assemblyman Bear has introduced this bill to deal with the problem discussed in Memorandum 68-11. Does the Commission wish to take any position with respect to this problem in view of the fact that Assembly Bill No. 73 has been introduced?

The staff believes that the effect of the bill is to eliminate the possible trap for the unwary that now exists and, at the same time, the bill will not significantly decrease the protection afforded public entities by the claims statute.

Respectfully submitted,

John H. DeMouly
Executive Secretary

ASSEMBLY BILL

No. 73

Introduced by Assemblyman Bear

January 11, 1968

REFERRED TO COMMITTEE ON JUDICIARY

*An act to amend Section 945.6 of the Government Code,
relating to liability of public entities.*

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 945.6 of the Government Code is
2 amended to read:
3 945.6. (a) Except as provided in Sections 946.4 and 946.6
4 and subject to subdivision (b) of this section any suit brought
5 against a public entity on a cause of action for which a claim
6 is required to be presented in accordance with Chapter 1 (com-
7 mencing with Section 900) and Chapter 2 (commencing with
8 Section 910) of Part 3 of this division must be commenced
9 (1) within six months after the date the claim is acted upon
10 by the board, or is deemed to have been rejected by the board,
11 in accordance with Chapters 1 and 2 of Part 3 of this division,
12 or (2) within one year from the date of the injury, whichever
13 period expires later.
14 (b) When a person is unable to commence a suit on a cause
15 of action described in subdivision (a) within the time pre-
16 scribed in that subdivision because he has been sentenced to
17 imprisonment in a state prison, the time limited for the com-
18 mencement of such suit is extended to six months after the
19 date that the civil right to commence such action is restored

LEGISLATIVE COUNSEL'S DIGEST

AB 73, as introduced, Bear (Jud.). Liability of public entities.

Amends Sec. 945.6, Gov.C.

Allows suit against a public entity on tort claim within one year from date of the injury or within six months after the claim is acted upon or deemed rejected by the board, whichever expires later, rather than only within latter period.

Vote—Majority; Appropriation—No; Fiscal Committee—No.

1 to such person, except that the time shall not be extended if
2 the public entity establishes that the plaintiff failed to make a
3 reasonable effort to commence the suit, or to obtain a restora-
4 tion of his civil right to do so, before the expiration of the
5 time prescribed in subdivision (a).

6 (c) A person sentenced to imprisonment in a state prison
7 may not commence a suit on a cause of action described in
8 subdivision (a) unless he presented a claim in accordance
9 with Chapter 1 (commencing with Section 900) and Chapter
10 2 (commencing with Section 910) of Part 3 of this division.