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**GOVERNMENT CODE - GOV**

**TITLE 1. GENERAL [100 - 7931.000]** ( Title 1 enacted by Stats. 1943, Ch. 134. )

**DIVISION 3.6. CLAIMS AND ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC EMPLOYEES [810 - 998.3]** ( Division 3.6 added by Stats. 1963, Ch. 1681. )

**PART 4. ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC EMPLOYEES [940 - 962]** ( Part 4 added by Stats. 1963, Ch. 1715. )

**CHAPTER 2. Actions Against Public Entities [945 - 949]** ( Chapter 2 added by Stats. 1963, Ch. 1715. )

**945.** A public entity may sue and be sued.

(Added by Stats. 1963, Ch. 1715.)

**945.2.** Except as otherwise provided by law, the rules of practice in civil actions apply to actions brought against public entities.

(Added by Stats. 1963, Ch. 1715.)

**945.3.** No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a superior court.

For the purposes of this section, charges pending before a superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

(Amended by Stats. 2002, Ch. 784, Sec. 121. Effective January 1, 2003.)

**945.4.** Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division.

(Amended by Stats. 1965, Ch. 653.)

**945.6.** (a) Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced:

(1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail.

(2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. If the period within which the public entity is required to act is extended pursuant to subdivision (b) of Section 912.4, the period of such extension is not part of the time limited for the commencement of the action under this paragraph.

(b) When a person is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he has been sentenced to imprisonment in a state prison, the time limit for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public entity establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (a).

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

*(Amended by Stats. 1971, Ch. 438.)*

**945.8.** Except where a different statute of limitations is specifically applicable to the public entity, and except as provided in Sections 930.6 and 935, any action against a public entity upon a cause of action for which a claim is not required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

*(Amended by Stats. 1965, Ch. 653.)*

**945.9.** (a) A claim arising out of an alleged sexual assault by a law enforcement officer if the alleged assault occurred while the officer was employed by a law enforcement agency is exempted from all state and local government claim presentation requirements.

(b) Notwithstanding any other law, the time for commencement of a claim seeking to recover damages arising out of an alleged sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday and while the officer was employed by a law enforcement agency, shall be the later of either of the following dates:

(1) Within 10 years after the date of judgment against a law enforcement officer in a criminal case for a crime of sexual assault or a judgment against a law enforcement officer for a different crime if a crime of sexual assault was alleged and the crime for which there was a judgment against a law enforcement officer arose out of the same set of operative facts as the allegation of sexual assault in the present claim.

(2) Within 10 years after the law enforcement officer is no longer employed by the law enforcement agency that employed the officer when the alleged sexual assault occurred.

(c) Notwithstanding subdivision (b), a claim seeking to recover damages arising out of an alleged sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday and while the officer was employed by a law enforcement agency, that has not been litigated to finality or compromised by an executed written settlement agreement and that would otherwise be barred because the applicable statute of limitations, any state or local government claim presentation deadline, or any other applicable time limit has expired, is hereby revived and may be commenced if filed within either of the following periods of time:

(1) Ten years from the date of the last act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff.

(2) Three years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff.

(d) As used in this section, "sexual assault" means any of the crimes described in Section 243.4, 261, 262, 264.1, 286, 287, or 289, or former Section 288a, of the Penal Code, assault with the intent to commit any of those crimes, or an attempt to commit any of those crimes.

*(Added by Stats. 2021, Ch. 595, Sec. 1. (AB 1455) Effective January 1, 2022.)*

**946.** Where a claim that is required to be presented to a public entity in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division is so presented and action thereon is taken by the board:

(a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

(b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.

(c) If the claim is allowed in part, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the board to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

**946.4.** (a) Where provision is made by or pursuant to law that no suit may be brought against a public agency as defined in Section 53050 unless and until a claim is presented to the agency, the failure to present a claim does not constitute a bar or defense to the maintenance of a suit against the public agency if, during the 70 days immediately following the accrual of the cause of action, either of the following apply:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Registry of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, as required by Section 53051.

(2) A statement or amended statement pertaining to the public agency is on file, or is placed on file, in the Registry of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, but the information contained therein is so inaccurate or incomplete that it does not substantially conform to the requirements of Section 53051.

(b) On any question of fact arising within the scope of paragraphs (1) and (2) of subdivision (a), the burden of proof is upon the public agency.

(c) This section is inapplicable where the presentation of a claim is required by a claims procedure established by agreement made pursuant to Section 930.2 unless the procedure so prescribed requires that the claim be presented to the governing body of the public agency or to a person listed in Section 53051.

(Amended by Stats. 2019, Ch. 329, Sec. 3. (SB 780) Effective January 1, 2020.)

**946.6.** (a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. If the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court. If an action on the cause of action to which the claim relates would be a limited civil case, a proceeding pursuant to this section is a limited civil case.

(b) The petition shall show each of the following:

(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

(3) The information required by Section 910.

The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage, or loss was a minor during any of the time specified in Section 911.2 for the presentation of the claim, provided the application is presented within six months of the person turning 18 years of age or a year after the claim accrues, whichever occurs first.

(4) The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

(5) The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during any of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that

time, provided the application is presented within six months of the person no longer being physically or mentally incapacitated, or a year after the claim accrues, whichever occurs first.

(6) The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state. If the petition involves a claim arising out of alleged actions or inactions of the Department of Transportation, service of the petition and notice of the hearing shall be made on the Attorney General or the Director of Transportation. Service on the Attorney General may be accomplished at any of the Attorney General's offices in Los Angeles, Sacramento, San Diego, or San Francisco. Service on the Director of Transportation may be accomplished only at the Department of Transportation's headquarters office in Sacramento. If the petition involves a claim arising out of alleged actions or inactions of a judicial branch entity, service of the petition and notice of the hearing shall be made in accordance with the following:

(1) If the petition involves a claim arising out of alleged actions or inactions of a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of the court, service shall be made on the court executive officer.

(2) If the petition involves a claim arising out of alleged actions or inactions of a court of appeal or a judge thereof, service shall be made on the Clerk/Executive Officer of the Court of Appeal.

(3) If the petition involves a claim arising out of alleged actions or inactions of the Supreme Court or a judge thereof, service shall be made on the Clerk/Executive Officer of the Supreme Court.

(4) If the petition involves a claim arising out of alleged actions or inactions of the Judicial Council or the Administrative Office of the Courts, service shall be made on the Administrative Director of the Judicial Council.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from Section 945.4, suit on the cause of action to which the claim relates shall be filed with the court within 30 days thereafter.

*(Amended by Stats. 2021, Ch. 218, Sec. 2. (SB 501) Effective January 1, 2022.)*

**948.** (a) The head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust, or compromise any pending action where the Director of Finance certifies that a sufficient appropriation for the payment of claims exists. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

(b) If no funds or insufficient funds for the payment exist, the head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust or compromise any pending action with the approval of the Department of Finance.

(c) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission or agency of the state claims against which are paid by warrants drawn by the Controller, but does not mean any "judicial branch entity" as defined in Section 940.3 or any judge thereof.

*(Amended by Stats. 2002, Ch. 1007, Sec. 13. Effective January 1, 2003.)*

**948.1.** The Judicial Council may settle, adjust, or compromise any pending action arising out of the activities of a judicial branch entity or judge thereof. The Judicial Council may adopt rules of court authorizing any committee of the Judicial Council or employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this section.

*(Added by Stats. 2002, Ch. 1007, Sec. 14. Effective January 1, 2003.)*

**949.** The governing body of a local public entity may compromise, or may delegate the authority to its attorney or an employee to compromise, any pending action.

*(Added by Stats. 1963, Ch. 1715.)*