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SB-501 Claims against public entities. (2021-2022)

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Date Published: 09/23/2021 02:00 PM

Senate Bill No. 501

CHAPTER 218

An act to amend Sections 911.6 and 946.6 of the Government Code, relating to governmental liability.

[Approved by Governor September 22, 2021. Filed with Secretary of State September 22, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 501, Wieckowski. Claims against public entities.

Existing law, the Government Claims Act, prescribes the procedure for claims and actions against public entities, including local entities, and their employees. Existing law requires certain claims, such as those relating to causes of action for death or for injury to a person or personal property, to be presented within 6 months after their accrual. For these actions, if a claim is not filed within the 6-month period, existing law authorizes an application for leave to present a claim to be made to the public entity within a reasonable time, not to exceed one year after the accrual of the cause of action, as specified. Existing law generally requires the relevant public entity review board to grant or deny the application for leave to present the claim within 45 days after it is presented. Existing law requires the application to be granted if one of several conditions is met, including that the person who sustained the alleged injury, damage, or loss was a minor or was physically and mentally incapacitated for the entire 6 months after the accrual of the cause of action, as specified. If the person was physically or mentally incapacitated during that period, existing law requires that the failure to present a claim be a result of the person's disability.

This bill would additionally require a board to grant an application for leave to present a claim, as described above, if the person who sustained the alleged injury, damage, or loss was a minor or was physically or mentally incapacitated during any of the 6 months after the accrual of the cause of action, if the application is presented within 6 months of the person turning 18 years of age, or of the person no longer being physically or mentally incapacitated, as applicable, or a year after the claim accrues, whichever occurs first. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would also make conforming changes to reflect these new requirements in provisions relating to petitions made to a court upon denial of applications to present a claim.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 911.6 of the Government Code is amended to read:

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application if one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(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.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

SEC. 2. Section 946.6 of the Government Code is amended to read:

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.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.