

minutes

Date of Meeting: March 13-14, 1959  
Date of Memo: March 5, 1959

Supplementary Memorandum re Suggestions Received  
Relating to the Claims Statute

Clark Bradley has forwarded to me several additional communications which he has received relating to the Commission's claims statute legislation. I have summarized below only those of the suggestions contained in these communications which seem to me to raise questions of sufficient importance to warrant consideration at the March meeting. (I will bring the original communications with me to the meeting so that if the Commission desires to have all of them read orally this can be done.)

1. From John H. Lauten, City Attorney of Fresno, commenting on A. B. 405:

- a. Suggests reference in Section 703(a) be to "law or ordinance" because "law" is frequently interpreted as meaning a state statute as opposed to a city ordinance.
- b. Suggests that Sections 714, 716 and 717 all provide for 90-day periods on ground that 100-day and 80-day provisions are not found anywhere in existing law.
- c. Suggests deletion of subsection (a) of Section 715 on ground that child's parent or guardian would be expected to act within normal filing period.
- d. Re Section 718(c) states: "Many cities delegate to the city

manager or chief administrative officer the compromise or adjustment of small claims [\$100-\$150] . . . It would be desirable that the provision permit not only a requirement of the governing body [that the claimant accept the amount in settlement of the entire claim] but also a requirement of an administrative officer authorized to compromise claims . . . ."

- e. Re last paragraph of Section 718 suggests deletion of "to act upon a claim or" on ground that statute gives governing body full 80 days to act and Section 717 provides for contingency of inaction.
- f. Re Section 719: "This Section nullifies the effect of requiring the amount of loss to be set forth in the claim."

2. From Frank Annibale, City Attorney of Alameda, commenting on

A. B. 405:

- a. Suggests constitutional amendment not necessary inasmuch as courts in construing Sections 53050 et seq. of the Government Code have determined that these are statewide rather than local matters; is concerned that as bill is drawn a chartered city such as Alameda might not be able to take advantage of the legislation until the constitutional amendment is adopted.
- b. Objects to 100 day claim filing provision in Section 714; would prefer 90 days.
- c. Objects to Section 720 because of concern that unauthorized remark on the part of any city officer, employee or agent in any setting would invoke an estoppel; feels that "reasonably

and in good faith" is not a sufficient safeguard, particularly if the question is one for the jury.

3. From Mr. Roscoe Hollinger, Chief Auditor of Los Angeles County, commenting on A. B. 405.

See attached copy of letter from Arvo Van Alstyne, communicating Hollinger's views to us.

4. From Robert G. Cockins, City Attorney, Santa Monica:

a. Mr. Cockins makes several suggestions relating to substantive changes in Sections 801-803 of the Government Code as these would be enacted by A. B. 406. Inasmuch as we have merely moved these sections to this location and have decided not to deal with them substantively at this time, I am not setting Mr. Cockins' comments forth in this memorandum.

b. Mr. Cockins has the following comments on A. B. 405:

- (1) He supports the idea embodied in paragraph 718(a) and believes that the underlying thought should be made even clearer.
- (2) He objects to the last paragraph of Section 718 insofar as it suggests that a mandamus action could be brought to compel action on a claim.
- (3) He objects to Section 720 as being too broad and would limit estoppel to those cases where (a) there has been a direct representation that no claim is necessary by the City Attorney, the City Manager,

the chief administrative officer or the mayor, and  
(b) there was a conscious misrepresentation with an  
intention that the claimant be misled.