

(37L)

4/15/59

MEMORANDUM

Subject: Possible changes in time for filing of claims.

Objection has been made by the State Bar, County Auditors Association, the County Counsel of Los Angeles and others to proposed Section 714 of the Government Code insofar as it allows only 100 days to present a contract claim. The State Bar has also questioned the adequacy of the 100 day period insofar as claims based on inverse condemnation are concerned.

One way to attempt to meet this objection would be simply to lengthen the time for presenting claims -- for example to 180 days. This would, I believe, possibly obviate the State Bar's objection to Section 714. It would apparently not obviate the objection of the County Auditors Association. It might well cause objection to be made to Section 714 by various public entities insofar as personal injury claims are concerned.

Another way in which this objection might be handled would be to revise the claims statute to provide different claims filing periods for different types of actions. To provide a starting point for a discussion along this line there are set forth below a proposed revision of Section 714 and two alternative forms of a new proposed Section 714.1:

714. A claim may be presented to a local public entity
(1) by delivering the claim personally to the clerk,
secretary or auditor thereof ~~not later than the 100th~~

~~day-after-the-cause-of-action-to-which-the-claim-relates
has-accrued within the period of time provided in Section
714.1 or (2) by sending the claim to such clerk, secretary
or auditor or to the governing body at its principal
office by mail post marked not later than such-100th-day
the last day of such period. A claim shall be deemed to
have been presented in compliance with this section even
though it is not delivered or mailed as provided herein
if it is actually received by the clerk, secretary, auditor
or governing body within the time prescribed.~~

~~For-the-purpose-of-computing-the-time-limit-prescribed
by-this-section,-the-date-of-accrual-of-a-cause-of-action
to-which-a-claim-relates-is-the-date-upon-which-the-cause
of-action-would-be-deemed-to-have-accrued-within-the-meaning
of-the-statute-of-limitations-which-would-be-applicable
thereto-if-the-claim-were-being-asserted-against-a-defendant
other-than-a-local-public-entity.~~

Alt.
No. 1

Section 714.1. A claim based on contract shall be presented as provided in Section 714 not later than one year after the cause of action to which the claim relates has accrued. A claim not based on contract shall be presented as provided in Section 714 not later than the 100th day after the cause of action to which the claim relates has accrued.

For the purpose of computing the time limit prescribed by this section, the date of accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if the claim were being asserted against a defendant other than a local public entity.

Alt. Section 714.1. A claim relating to a cause of action for physical injury to the person or death shall be presented as provided in Section 714 not later than the 100th day after the cause of action has accrued. A claim relating to any other cause of action shall be presented as provided in Section 714 not later than one year after the cause of action has accrued.

[Same second paragraph as above]