
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 501 (Wieckowski) - Claims against public entities

Version: March 25, 2021

Urgency: No

Hearing Date: April 19, 2021

Policy Vote: JUD. 11 - 0

Mandate: Yes

Consultant: Shaun Naidu

Bill Summary: SB 501 would extend the circumstances under which certain injured parties who are minors or who are physically or mentally incapacitated are entitled to have their applications to file untimely claims against public entities granted.

Fiscal Impact:

- Unknown, potentially-significant costs to the state to the extent that applications for untimely claims that would be required to be approved under SB 501 that otherwise would have been denied under existing law lead to administrative claim payouts or awards of money judgements in court actions that would not have occurred under existing law. Actual costs would depend on many unknown factors, including the severity of the alleged injury, damage, or loss and how many applications for untimely claims would fall within the circumstances of the expansion proposed by this measure. (General Fund)
- The Department of General Services, Judicial Council, University of California, and California State University all indicate minor to unknown costs to comply with this measure. (General Fund)

Background: According to the analysis of this bill by the Senate Committee on Judiciary:

A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person, except as otherwise provided by statute. (Gov. Code § 815.) However, the Government Code specifically provides that a “public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment” if the conduct would have otherwise given rise to a cause of action against that employee. (Gov. Code § 815.2.)

The [Government Claims] Act generally governs these claims brought against public entities. (Gov. Code § 815 et seq.) Where a party is injured by a public entity, including state and local entities, the Act provides a detailed process by which the person must present the claim to the public entity before being entitled to file suit against the public entity. In addition to any time limitations placed by other statutes on such claims, the Act requires that a claim that is brought against a public entity relating to a cause of action for death or for injury to a person be presented in writing to the public entity not later than six months after accrual of the cause or causes of action. (Gov. Code § 911.2.)

However, the Act allows for a person to file a written application to submit an untimely claim against the public entity. (Gov. Code § 911.4.) The application requesting leave to file a late claim must still be submitted “within a reasonable time not to exceed one year after the accrual of the cause of action.” This one-year period is subject to various exceptions whereby the time is tolled.

Once an application is filed, the public entity must grant or deny the application within 45 days. (Gov. Code § 911.6.) The public entity is required to grant the application under certain circumstances. Relevant here, the public entity is forced to provide leave to file a claim where the person was a minor during all of the time “specified in Section 911.2 for the presentation of the claim.” The same applies where the person 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 such disability failed to present a claim during such time.”

Proposed Law: This bill would require a government claims board to grant an application for an untimely administrative claim if the person who sustained the alleged injury, damage, or loss was either of the following:

- A minor during any of the time specified in existing law for the presentation of the claim, provided the application is presented within six months of the person turning age 18 or a year after the claim accrues, whichever occurs first.
- Physically or mentally incapacitated during any of the time specified in existing law 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.

Staff Comments: For causes of action for which an administrative claim is required in accordance with the Government Claims Act, a person may not bring a lawsuit seeking money against a public entity until a written claim has been presented to the public entity and has been acted on or rejected by the board, with certain exceptions. (Gov. Code, § 945.4.) One of these exceptions allows a person whose application for an untimely claim has been denied by the board to petition the court to be relieved of the requirement in section 945.4 (i.e., of presenting a claim). (Gov. Code, § 946.6, subd. (a).) One of the criteria that, if found by the court, requires it to grant the petition mirrors the list of circumstances in Government Code section 911.6, subdivision (b) in which the board is required to grant an application for an untimely claim. (See Gov. Code, § 946.6, subd. (c).) Consequently, the author may wish to consider amending Government Code section 946.6, subdivision (c) consistent with the amendments SB 501 would make to Government Code section 911.6 in order to maintain congruity between the two statutes.

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