

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 59

Introduced by Assembly Member Bonta

January 7, 2013

An act to amend ~~Section 50079~~ *Sections 905, 935, and 995.2* of the Government Code, relating to ~~taxation~~ *claims*.

LEGISLATIVE COUNSEL'S DIGEST

AB 59, as amended, Bonta. ~~School districts: parcel taxes. Claims.~~

Existing law requires that all claims for money or damages against local public entities be presented in accordance with specified laws, including, but not limited to, statutes and regulations.

This bill would replace certain terms used to describe the laws relating to the presentment of claims against local public entities with the terms enactment and resolution, as specified.

~~Existing law authorizes any school district to impose qualified special taxes within the district pursuant to specified procedures. Existing law defines qualified special taxes as special taxes that apply uniformly to all taxpayers or all real property within the school district, as specified.~~

~~This bill would specify that the provisions requiring uniform application of taxes shall not be construed as limiting a school district from assessing taxes in accordance with rational classifications among taxpayers or types of property within the school district. The bill would specify that the provision is declaratory of existing law. The bill would also express the Legislature's intent to clarify, and not change, existing law, and to abrogate the holding in *Borikas v. Alameda Unified School District*, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 905 of the Government Code is amended
- 2 to read:
- 3 905. There shall be presented in accordance with Chapter 1
- 4 (commencing with Section 900) and Chapter 2 (commencing with
- 5 Section 910) all claims for money or damages against local public
- 6 entities except any of the following:
- 7 (a) Claims under the Revenue and Taxation Code or other ~~statute~~
- 8 *enactment or resolution* prescribing procedures for the refund,
- 9 rebate, exemption, cancellation, amendment, modification, or
- 10 adjustment of any tax, assessment, fee, or charge or any portion
- 11 thereof, or of any penalties, costs, or charges related thereto.
- 12 (b) Claims in connection with which the filing of a notice of
- 13 lien, statement of claim, or stop notice is required under any law
- 14 relating to liens of mechanics, laborers, or materialmen.
- 15 (c) Claims by public employees for fees, salaries, wages,
- 16 mileage, or other expenses and allowances.
- 17 (d) Claims for which the workers' compensation authorized by
- 18 Division 4 (commencing with Section 3200) of the Labor Code is
- 19 the exclusive remedy.
- 20 (e) Applications or claims for any form of public assistance
- 21 under the Welfare and Institutions Code or other provisions of law
- 22 relating to public assistance programs, and claims for goods,
- 23 services, provisions, or other assistance rendered for or on behalf
- 24 of any recipient of any form of public assistance.
- 25 (f) Applications or claims for money or benefits under any public
- 26 retirement or pension system.
- 27 (g) Claims for principal or interest upon any bonds, notes,
- 28 warrants, or other evidences of indebtedness.
- 29 (h) Claims that relate to a special assessment constituting a
- 30 specific lien against the property assessed and that are payable
- 31 from the proceeds of the assessment, by offset of a claim for
- 32 damages against it or by delivery of any warrant or bonds
- 33 representing it.
- 34 (i) Claims by the state or by a state department or agency or by
- 35 another local public entity or by a judicial branch entity.

1 (j) Claims arising under any provision of the Unemployment
2 Insurance Code, including, but not limited to, claims for money
3 or benefits, or for refunds or credits of employer or worker
4 contributions, penalties, or interest, or for refunds to workers of
5 deductions from wages in excess of the amount prescribed.

6 (k) Claims for the recovery of penalties or forfeitures made
7 pursuant to Article 1 (commencing with Section 1720) of Chapter
8 1 of Part 7 of Division 2 of the Labor Code.

9 (l) Claims governed by the Pedestrian Mall Law of 1960 (Part
10 1 (commencing with Section 11000) of Division 13 of the Streets
11 and Highways Code).

12 (m) Claims made pursuant to Section 340.1 of the Code of Civil
13 Procedure for the recovery of damages suffered as a result of
14 childhood sexual abuse. This subdivision shall apply only to claims
15 arising out of conduct occurring on or after January 1, 2009.

16 (n) Claims made pursuant to Section 701.820 of the Code of
17 Civil Procedure for the recovery of money pursuant to Section
18 26680.

19 (o) Claims made pursuant to Section 49013 of the Education
20 Code for reimbursement of pupil fees for participation in
21 educational activities.

22 *SEC. 2. Section 935 of the Government Code is amended to*
23 *read:*

24 935. (a) Claims against a local public entity for money or
25 damages which are excepted by Section 905 from Chapter 1
26 (commencing with Section 900) and Chapter 2 (commencing with
27 Section 910) of this part, and which are not governed by any other
28 statutes or regulations expressly relating thereto, shall be governed
29 by the procedure prescribed in any ~~charter, ordinance or regulation~~
30 *enactment or resolution* adopted by the local public entity.

31 (b) The procedure so prescribed may include a requirement that
32 a claim be presented and acted upon as a prerequisite to suit
33 thereon. If such requirement is included, any action brought against
34 the public entity on the claim shall be subject to the provisions of
35 Section 945.6 and Section 946.

36 (c) The procedure so prescribed may not require a shorter time
37 for presentation of any claim than the time provided in Section
38 911.2.

1 (d) The procedure so prescribed may not provide a longer time
2 for the board to take action upon any claim than the time provided
3 in Section 912.4.

4 (e) When a claim required by the procedure to be presented
5 within a period of less than one year after the accrual of the cause
6 of action is not presented within the required time, an application
7 may be made to the public entity for leave to present such claim.
8 Subdivision (b) of Section 911.4, Sections 911.6 to 912. 2,
9 inclusive, and Sections 946.4 and 946.6 are applicable to all such
10 claims, and the time specified in the charter, ordinance or regulation
11 shall be deemed the “time specified in Section 911.2” within the
12 meaning of Sections 911.6 and 946.6.

13 *SEC. 3. Section 995.2 of the Government Code is amended to*
14 *read:*

15 995.2. (a) A public entity may refuse to provide for the defense
16 of a civil action or proceeding brought against an employee or
17 former employee if the public entity determines any of the
18 following:

19 (1) The act or omission was not within the scope of his or her
20 employment.

21 (2) He or she acted or failed to act because of actual fraud,
22 corruption, or actual malice.

23 (3) The defense of the action or proceeding by the public entity
24 would create a specific conflict of interest between the public entity
25 and the employee or former employee. For the purposes of this
26 section, “specific conflict of interest” means a conflict of interest
27 or an adverse or pecuniary interest, as specified by ~~statute or by a~~
28 ~~rule enactment, resolution, rule, or regulation~~ of the public entity.

29 (b) If an employee or former employee requests in writing that
30 the public entity, through its designated legal counsel, provide for
31 a defense, the public entity shall, within 20 days, inform the
32 employee or former employee whether it will or will not provide
33 a defense, and the reason for the refusal to provide a defense.

34 (c) If an actual and specific conflict of interest becomes apparent
35 subsequent to the 20-day period following the employee’s written
36 request for defense, nothing herein shall prevent the public entity
37 from refusing to provide further defense to the employee. The
38 public entity shall inform the employee of the reason for the refusal
39 to provide further defense.

1 SECTION 1.— Section 50079 of the Government Code, as amended
2 by Section 1 of Chapter 791 of Statutes of 2012, is amended to
3 read:

4 50079.— (a) Subject to Section 4 of Article XIII A of the
5 California Constitution, any school district may impose qualified
6 special taxes within the district pursuant to the procedures
7 established in Article 3.5 (commencing with Section 50075) and
8 any other applicable procedures provided by law.

9 (b) (1) As used in this section, “qualified special taxes” means
10 special taxes that apply uniformly to all taxpayers or all real
11 property within the school district, except that “qualified special
12 taxes” may include taxes that provide for an exemption from those
13 taxes for all of the following taxpayers:

14 (A) Persons who are 65 years of age or older.

15 (B) Persons receiving Supplemental Security Income for a
16 disability, regardless of age.

17 (C) Persons receiving Social Security Disability Insurance
18 benefits, regardless of age, whose yearly income does not exceed
19 250 percent of the 2012 federal poverty guidelines issued by the
20 United States Department of Health and Human Services.

21 (2) “Qualified special taxes” do not include special taxes
22 imposed on a particular class of property or taxpayers.

23 (e) The provisions in this section requiring uniform application
24 of taxes shall not be construed as limiting a school district from
25 assessing taxes in accordance with rational classifications among
26 taxpayers or types of property within the school district. This
27 subdivision is declaratory of existing law, and shall apply to
28 transactions predating its enactment.

29 SEC. 2.— It is the intent of the Legislature, in enacting Section
30 1 of this act, to clarify, and not change, existing law, by confirming
31 that a school district may assess taxes in accordance with rational
32 classifications among taxpayers or types of property, and
33 nevertheless satisfy the requirement that the taxes apply uniformly
34 to all taxpayers or all real property within the school district, so
35 long as the taxes are applied uniformly within those classifications.
36 It is further the intent of the Legislature to abrogate the holding in
37 *Borikas v. Alameda Unified School District* 2012 WL 6084027 to
38 the extent that the court’s holding restricts the right of the Alameda
39 Unified School District to retain any of the qualified special taxes

1 ~~imposed pursuant to Measure H, as approved by the district's~~
2 ~~voters on June 3, 2008.~~

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