

RESOLUTION 11-06-2015

DIGEST

Government: Accrual of Interest in Judgments Against the State of California

Amends Government Code section 965.5 to allow for interest to run at the legal rate on judgments against the State of California upon the entry of the judgment.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend California Government Code section 965.5 to read as follows:

§965.5

- 1 (a) A judgment for the payment of money against the state or a state agency is
2 enforceable until 10 years after the time the judgment becomes final or, if the judgment is
3 payable in installments, until 10 years after the final installment becomes due.
- 4 (b) A judgment for the payment of money against the state or a state agency is not
5 enforceable under Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil
6 Procedure, but is enforceable under this chapter.
- 7 (c) Interest on the amount of a judgment or settlement for the payment of moneys against
8 the state shall commence in accordance with Code of Civil Procedure section 685.020 ~~to accrue~~
9 ~~180 days from the date of the final judgment or settlement.~~
- 10 (d) Unless another statute provides a different interest rate, interest on a tax or fee
11 judgment for the payment of moneys against the state shall accrue in accordance with Code of
12 Civil Procedure section 685.010 ~~at a rate equal to the weekly average one year constant maturity~~
13 ~~United States Treasury yield at the time of the judgment plus 2 percent, but shall not exceed 7~~
14 ~~percent per annum.~~
- 15 (e) Subdivisions (c) and (d) shall not apply to any claim approved by the California
16 Victim Compensation and Government Claims Board.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: The State of California has created special rules for itself when it has been found liable for violation of its own laws. Under the current statutory scheme, any judgments obtained against the State of California do not accrue interest for 180 days after entry of judgment, and even then, it is at a rate that is currently the equivalent of 2.12%! The State should be held to the same standards as every other party in litigation and should be liable for interest at the legal rate upon entry of judgment until paid in full..

The Solution: This modifies the statute to allow for interest to run starting from the date of entry of judgment and at the legal rate that every other litigant has to pay.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Not known.

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**RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE**

History:

No similar resolutions found

Reasons:

This resolution amends Government Code section 965.5 to allow for interest at the legal rate of interest to run on judgments against the State of California upon the entry of the judgment. This resolution should be approved in principle because there are no valid grounds for the double standard created by the current scheme, which allows the state to avoid paying interest over the same duration and at the same rates as other money judgments in the state.

The current statutory scheme provides that judgments obtained against the State of California do not accrue interest for 180 days after entry of judgment, unlike other judgments which are payable upon entry of the judgment. Additionally, judgments obtained against the State of California accrue at a different rate from other money judgments. Currently, the rate at which the state must pay interest is significantly lower than other entities (the proponent believes the current rate is the equivalent of 2.12%). The state may be reducing capital outlays through the current scheme which allows for a different period within which to pay a money judgment, as well as a different rate of interest for the payments of such a judgment. Nevertheless, the state should be held to the same standards as other parties in litigation, including being liable for interest at the legal rate and upon entry of judgment until the judgment is paid in full.