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An act to amend Sections 905.2, 3515.7, and 14659.10 of the Government Code, relating to state government.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 905.2 of the Government Code is amended to read:

905.2. (a) This section shall apply to claims against the state filed with the Department of General Services except as provided in subparagraph (B) of paragraph (2) of subdivision (b).

(b) There shall be presented in accordance with this chapter and Chapter 2 (commencing with Section 910) all claims for money or damages against the state:

(1) For which no appropriation has been made or for which no fund is available but the settlement of which has been provided for by statute or constitutional provision.

(2) (A) For which the appropriation made or fund designated is exhausted.

(B) Claims for reissuance of stale, dated, or replacement warrants shall be filed with the state entity that originally issued the warrant and, if allowed, shall be paid from the issuing entity's current ~~appropriation.~~ appropriation or from any funds that are otherwise legally available to the entity to be used for that purpose. If an issuing entity determines that it is unable to issue a replacement warrant from its current appropriation or from any funds that are otherwise legally available to the entity to be used for that purpose, that entity may submit a request to include a claim for reimbursement of that warrant in a claims bill referenced in Section 14659.10 pursuant to a process prescribed by the Department of General Services.

(3) For money or damages on express contract, or for an injury for which the state is liable.

(4) For which settlement is not otherwise provided for by statute or constitutional provision.



(c) Claimants shall pay a filing fee of twenty-five dollars (\$25) for filing a claim described in subdivision (b), except for claims for reissuance of stale, dated, or replacement warrants as described in subparagraph (B) of paragraph (2) of subdivision (b). This fee shall be deposited into the Service Revolving Fund and shall only be available for the support of the Department of General Services upon appropriation by the Legislature.

(1) The fee shall not apply to the following persons:

(A) Persons who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplementary Payment (SSP) programs (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the federal Supplemental Nutrition Assistance Program (SNAP; 7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions Code.

(B) Persons whose monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of California Health and Human Services pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as amended.

(C) Persons who are sentenced to imprisonment in a state prison or confined in a county jail, or who are residents in a state institution and, within 90 days prior to the date the claim is filed, have a balance of one hundred dollars (\$100) or less credited



to the inmate's or resident's trust account. A certified copy of the statement of the account shall be submitted.

(2) Any claimant who requests a fee waiver shall attach to the application a signed affidavit requesting the waiver and verification of benefits or income and any other required financial information in support of the request for the waiver.

(3) Notwithstanding any other law, an applicant shall not be entitled to a hearing regarding the denial of a request for a fee waiver.

(d) The time for the Department of General Services to determine the sufficiency, timeliness, or any other aspect of the claim shall begin when any of the following occur:

(1) The claim is submitted with the filing fee.

(2) The fee waiver is granted.

(3) The filing fee is paid to the department upon the department's denial of the fee waiver request, so long as payment is received within 10 calendar days of the mailing of the notice of the denial.

(e) Upon approval of the claim by the Department of General Services, the fee shall be reimbursed to the claimant, except that no fee shall be reimbursed if the approved claim was for the payment of an expired warrant. Reimbursement of the filing fee shall be paid by the state entity against which the approved claim was filed. If the claimant was granted a fee waiver pursuant to this section, the amount of the fee shall be paid by the state entity to the department. The reimbursement to the claimant or the payment to the department shall be made at the time the claim is paid by the



state entity, or shall be added to the amount appropriated for the claim in an equity claims bill.

(f) The Department of General Services may assess a surcharge to the state entity against which the approved claim was filed in an amount not to exceed 15 percent of the total approved claim. The department shall not include the refunded filing fee in the surcharge calculation. This surcharge shall be deposited into the Service Revolving Fund and may be appropriated in support of the department in the annual Budget Act.

(1) The surcharge shall not apply to approved claims to reissue expired warrants.

(2) Upon the request of the department in a form prescribed by the Controller, the Controller shall transfer the fees from the state entity's appropriation to the appropriation for the support of the department. However, the department shall not request an amount that shall be submitted for legislative approval pursuant to Section 14659.10.

(g) The filing fee required by subdivision (c) shall apply to all claims filed after June 30, 2004, or ~~the effective date of this statute.~~ August 16, 2004. The surcharge authorized by subdivision (f) may be calculated and included in claims paid after June 30, 2004, or ~~the effective date of the statute adding this subdivision.~~ August 16, 2004.

(h) This section shall not apply to claims made for a violation of the California Whistleblower Protection Act (Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2).

SEC. 2. Section 3515.7 of the Government Code is amended to read:

3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state



employer providing for organizational security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the Department of General Services for receipt of charitable contributions by payroll deductions.



(d) A fair share fee provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for the vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the ~~Department of General Services~~ board determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner that it shall prescribe. Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

(e) Every recognized employee organization that has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the ~~Department of General Services~~ board and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the ~~Department of General Services~~ board for an order compelling this compliance, or the ~~Department of General Services~~ board may issue a compliance order on its own motion.



(f) If an employee who holds conscientious objections pursuant to subdivision (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

SEC. 3. Section 14659.10 of the Government Code is amended to read:

14659.10. The department shall take any and all necessary steps to ensure that all claims ~~which~~ that have been approved by the department, and for which there exists no legally available appropriation, are submitted for legislative approval at least ~~twice~~ once during each calendar year.





## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: State government.

(1) The Government Claims Act sets forth the general procedure for claims and actions against public entities and public employees. The act requires a person to file a claim for reissuance of stale, dated, or replacement warrants with the state entity that originally issued that warrant, and requires that entity to, if allowed, pay that warrant using the issuing entity's current appropriation.

Existing law requires the Department of General Services to carry out various duties relating to compensating the victims of specified types of crimes for losses suffered as a result of those crimes, and processing certain types of claims against the state. Existing law requires the department to ensure that all claims against the state that have been approved by the department but have no legally available appropriation be submitted to the Legislature for approval at least twice during each calendar year, which is known as a claims bill.



This bill would authorize the entity that originally issued the expired warrant to pay that warrant from any funds that are otherwise legally available to that entity for that purpose. The bill would also authorize an issuing entity that determines that it is unable to issue a replacement warrant from its current appropriation or from any funds that are otherwise legally available to the entity for that purpose to submit a request to include a claim for reimbursement of that warrant in a claims bill pursuant to a process prescribed by the Department of General Services.

This bill would, require the department to ensure that all claims that have been approved, and for which no legally available appropriation exists, are submitted for legislative approval at least once during each calendar year instead of twice during each calendar year.

(2) The Ralph C. Dills Act provides that once an employee organization is recognized as the exclusive representative of an appropriate unit, it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction. Existing law requires the Department of General Services, if certain conditions are met, to conduct a vote to rescind a fair share fee provision in a memorandum of understanding. Existing law requires the department to receive specified financial information from a recognized employee organization that has agreed to a fair share fee provision, as well as to carry out related enforcement duties. Existing law requires the Public Employment Relations Board to carry out specified powers and duties under the Ralph C. Dills Act.

This bill would transfer the duties of the Department of General Services described above to the Public Employment Relations Board.



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



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