

ORDINANCE NO 10108 (NEW SERIES)
01/11/11 (8)

AN ORDINANCE AMENDING
COUNTY OF SAN DIEGO ADMINISTRATIVE CODE
ARTICLE X RELATING TO CLAIMS AGAINST THE COUNTY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: ARTICLE X of the County of San Diego Administrative Code is hereby amended to read as follows:

ARTICLE X CLAIMS AGAINST THE COUNTY

SEC. 145. SUBJECT MATTER.

(a) Claims for Money or Damages. All claims for money or damages that are required to be presented to the County under the provisions of Government Code Section 900, et seq. shall be governed by this Article.

(b) Required Presentation of Claim for All Claims Excepted by Government Code Section 905. In accordance with Government Code Section 935, the County requires the presentation of a claim for all claims for money or damages that are otherwise excepted by Government Code Section 905. Such claims shall be governed by this Article, unless expressly governed by another statute or regulation.

(c) Claims Against Public Employees or Former Public Employees. All claims for money or damages that are required to be presented to the County under the provisions of Government Code Section 950, et seq. shall be governed by this Article.

SEC. 146. WRITTEN CLAIM REQUIRED TO BRING SUIT.

No suit for money or damages may be brought against the County on a cause of action for which this Article requires a claim to be presented until a written claim has been presented in conformity with the provisions of this Article.

SEC. 147. TIME LIMITATION FOR PRESENTING CLAIM.

All claims shall be presented in the manner provided in Section 149 of this Article and in accordance with the following requirements:

(a) A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented not later than six months after the accrual of the cause of action.

(b) A claim relating to any other cause of action shall be presented not later than one year after the accrual of the cause of action.

For the purpose of computing the time limits prescribed by this section, the date of the accrual of a cause of action is the date upon which the cause of action accrued within the meaning of the applicable statute of limitations, as defined by Government Code Section 901.

SEC. 148. LATE FILING OF CLAIMS.

The filing of late claims pursuant to this Article is governed by Government Code Sections 911.4 to 912.2, inclusive.

SEC. 149. CLAIM FORM.

Claims under this Article shall be presented to the County Counsel Claims Office. The claim shall contain the information required by Government Code Section 910.

SEC. 150. COUNTY COUNSEL DUTIES.

County Counsel shall allow or reject claims, within the limitations set forth in Section 159, with the same effect as allowance or rejection by the Board of Supervisors.

SEC. 151. TIME FOR ACTION BY COUNTY COUNSEL AND CLAIMANT.

(a) Time for Action by County Counsel. County Counsel shall act upon any claim presented pursuant to this Article within the time prescribed by Government Code Section 912.4, and in the manner prescribed by Section 912.6 of that Code. The failure or refusal of County Counsel to act on a claim shall have the effect stipulated in Section 912.4.

(b) Time for Legal Action by Claimant. Any legal action brought by a claimant on a cause of action set forth in a claim presented pursuant to this Article shall be brought within the time specified in Government Code Section 945.6.

SEC. 151.5. REEXAMINATION OF REJECTED CLAIMS.

In accordance with Government Code Section 913.2, County Counsel retains the discretion to reexamine a previously rejected claim within the time prescribed by Government Code Section 945.6 for commencing an action on the claim.

SEC. 152. AGREEMENTS SUBJECT TO CLAIMS PROCEDURES.

In accordance with Government Code Section 930.2, the County may include claims presentation requirements in any written agreement to which the County, or its governing body, or any board, or any employee thereof in an official capacity, is a party.

The agreement must expressly provide that its claims presentation requirements govern in lieu of the claims presentation requirements set forth in Government Code Section 900, et seq. and this Article.

SEC. 153. [RESERVED].

SEC. 154. [RESERVED].

SEC. 155. [RESERVED].

SEC. 156. [RESERVED].

SEC. 156.1. [RESERVED].

SEC. 157. [RESERVED].

SEC. 158. [RESERVED].

SEC. 159. ACTION BY COUNTY COUNSEL ON CLAIMS.

(a) Unless otherwise provided by this Article, all claims required to be presented to the County under the provisions of Government Code Section 900, et seq. or this Article shall be presented to the County Counsel Claims Office. For purposes of Government Code Section 915 only, County Counsel is designated as a Deputy Clerk of the Board.

(b) County Counsel is authorized to allow, deny, compromise or settle any such claim or action that is filed against the County, its officers or employees, provided:

1. The amount to be paid pursuant to such allowance, compromise or settlement does not exceed twenty-five thousand dollars (\$25,000);

2. The claim or action is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny compromise or settle claims or actions within the scope of such policy; and

3. County Counsel represents the County, its officers or employees in a litigation case, or where there exists a conflict of interest, represents the County (or some of the

defendant County officers or employees) in the same litigation case in which outside counsel retained by the County represents other County officers or employees.

(c) In all claims or actions that are allowed, compromised or settled, the Auditor shall, upon written direction from County Counsel, and in accordance with the terms of such allowance, compromise or settlement, cause the necessary warrant to be issued upon the treasury of the County in an amount for which such claim or action has been allowed, compromised or settled pursuant to this section.

(d) County Counsel shall provide the Board with an annual report relating to pending claims and actions.

(e) If the amount to be paid exceeds twenty-five thousand dollars (\$25,000), the allowance, compromise or settlement must be approved by the Board of Supervisors.

SEC. 159.1. WORKERS' COMPENSATION CLAIMS FILED WITH DEPARTMENT OF HUMAN RESOURCES.

County employees making a claim for Workers' Compensation Benefits under the provisions of Division 4 (commencing with Section 3200) of the Labor Code shall present a claim to the Department of Human Resources for processing in accordance with Section 200.8 of this Code.

SEC. 159.2. CLAIMS FOR REIMBURSEMENT OF PUNITIVE OR EXEMPLARY DAMAGES.

(a) All County employees making a claim for payment by the County of punitive or exemplary damages pursuant to subdivision (b) of Government Code section 825 shall file such claims with the County Counsel Claims Office. These claims constitute claims by public employees for other expenses or claims for principal or interest on evidences of indebtedness which are excepted by Government Code section 905 from the claims procedure provided in the Government Code. These claims shall be governed exclusively by this section 159.2.

(b) Any claim for payment by the County of punitive or exemplary damages, including the written authorization for release of records described under subdivision (c), shall be filed with the County Counsel Claims Office on a form prescribed by the County Counsel (hereinafter the "claim form"). The claim form shall be filed not later than six months from the date that the judgment awarding such punitive or exemplary damages is final, or six months from the date notification of the judgment was sent to claimant, whichever is later.

Failure to submit the required form, including the written authorization for release of confidential personnel records described under subdivision (c), within the time specified shall constitute an incomplete claim under this section, and shall result in an automatic denial of payment by the County of the requested punitive or exemplary damages.

(c) The claim form for the payment of punitive or exemplary damages includes an authorization for the release of confidential personnel records. In executing the authorization for release of personnel records included in the claim form, the claimant shall authorize the release of his confidential personnel records to members of the Board of Supervisors and the Chief Administrative Officer relating to the following personnel records of claimant:

1. All materials regarding the incident giving rise to the judgment for punitive or exemplary damages;

2. All performance evaluations;

3. A complete list of discipline imposed on claimant, including the charges giving rise to the discipline;

4. For those departments employing peace officers, a list of internal affairs investigations of complaints against the claimant setting forth only the following information:

- a. Date of complaint;
- b. Nature of the complaint;
- c. Disposition of the complaint;
- d. Discipline imposed, if any.

(d) The Board of Supervisors shall consider the claim and determine whether or not to grant the request for payment of punitive or exemplary damages. The decision of the Board to deny the claim or to grant the claim in whole or in part shall be final.

(e) This section is intended to establish a procedure for processing claims for punitive or exemplary damages and is not intended to in any way alter the substantive laws applicable to payment of such damages by the County of San Diego. This section shall not entitle claimant to any civil remedies not otherwise provided by law.

SEC. 159.3. CLAIMS REQUIREMENTS SEPARATE FROM PROCEDURES FOR PROCESSING ROUTINE CLAIMS FOR PAYMENT.

The claims presentation requirements set forth in this Article are separate from the procedures for processing routine claims for payment under Article V-A, commencing with Section 95 of this Code.

Section 2: Effective Date. This ordinance shall take effect thirty (30) days after its adoption. Within fifteen days after the date of adoption of this ordinance, a summary shall be published once with the name of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 11th day of January, 2011.