

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: Original
POSITION: Neutral

BILL NUMBER: SB 1339
AUTHOR: J. Simitian

BILL SUMMARY: Government Tort Claims: Childhood Sex Abuse

This bill would treat childhood sexual abuse actions brought against a local public entity the same as those brought against a private entity by exempting recovery of damages suffered as the result of childhood sexual abuse from the Government Tort Claims Act and its six-month public entity claim presentation requirement.

FISCAL SUMMARY

The fiscal impact of this bill is unknown. Any local public entity that comes into contact with children could be affected. The majority of actions arising from this bill would likely be against school districts, but could also affect cities parks and recreation programs, publicly run daycares, and publicly run group homes for foster children. This bill could result in the state providing a loan to a school district if the district is unable to afford the damages awarded against it.

COMMENTS

The Department of Finance takes a neutral position on this bill. This bill would clarify that actions brought against local public entities for childhood sexual abuse are exempt from the six-month claim presentation requirement stated in the Government Tort Claims Act.

This bill is in response to the 2007 California Supreme Court ruling in *Shirk v. Vista Unified School District*. The plaintiff brought a claim against the school district asserting under Code of Civil Procedure Section 340.1 that the district knew or should have known that the teacher engaged in sexual misconduct with students. Section 340.1 allows for an action for recovery of damages suffered as a result of childhood sexual abuse to be commenced on or after the plaintiff's 26th birthday if the third party defendant had reason to know of any unlawful sexual conduct by an employee and failed to take reasonable steps to avoid future acts of unlawful sexual conduct.

Because the school district is a public entity, the plaintiff attempted to comply with the government claim requirements. However, the California Supreme Court held that the six-month claim requirement superseded the delayed discovery provisions of Section 340.1. The Court stated that it reached this conclusion because the Legislature had not specifically exempted Section 340.1 actions against public entities from government tort claim requirements.

| Code/Department Agency or Revenue Type | (Fiscal Impact by Fiscal Year) | | | | | | | | Fund Code |
|--|--------------------------------|----|----|------|-----------|--------------------|-----------|------|--------------|
| | SO | LA | CO | PROP | FC | FC | FC | FC | |
| | | | 98 | | 2007-2008 | 2008-2009 | 2009-2010 | | |
| 9230/Aid to K-12 | SO | No | | | ----- | See Fiscal Summary | ----- | 0001 | |

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| Analyst/Principal (0241) K. Shelton | Date | Program Budget Manager Todd Jerue | Date |
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| Department Deputy Director | Date |
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| Governor's Office: | By: | Date: | Position Approved _____ |
| | | | Position Disapproved _____ |

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