

# BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF ORDINANCE  
ENACTING LOCAL CLAIMS FILING  
REQUIREMENTS

)  
) Resolution No.2019-0229  
) Ordinance No. 3551

UPON MOTION OF SUPERVISOR SHUKLIAN, SECONDED BY SUPERVISOR  
VALERO, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT  
AN OFFICIAL MEETING HELD APRIL 2, 2019, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, VALERO AND  
TOWNSEND

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY:

  
Deputy Clerk

\* \* \* \* \*

1. Waived the second reading and adopted an ordinance adding section 170 to the General Provisions of the Ordinance Code of Tulare County, pertaining to claims and demands against the County and/or its officers or employees.
2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.



**County Counsel**  
**COUNTY OF TULARE**  
**AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
EDDIE VALERO  
District Four  
DENNIS TOWNSEND  
District Five

**AGENDA DATE:** March 19, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Jeff Kuhn    PHONE: 636-4950

**SUBJECT:** Ordinance Enacting Local Claims Filing Requirements

**REQUEST(S):**

That the Board of Supervisors:  
On March 19, 2019

1. Introduce and waive the first reading of an ordinance adding section 170 to the General Provisions of the Ordinance Code of Tulare County, pertaining to claims and demands against the County and/or its officers or employees.
2. Set the second reading for April 2, 2019.
3. Direct the Clerk to publish a summary of the ordinance before the second reading as required by law.

On April 2, 2019

4. Waive the second reading and adopt an ordinance adding section 170 to the General Provisions of the Ordinance Code of Tulare County, pertaining to claims and demands against the County and/or its officers or employees.
5. Direct the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.

**SUMMARY:**

The California Tort Claims Act generally requires the filing of an administrative claim for damages as a prerequisite to filing a civil action against a public agency and/or its officers or employees. Fifteen classes of damage claims are exempted from the claim-presentation requirements under Government Code section 905. However, the Tort Claims Act provides local public agencies an opportunity to remove this exemption. Pursuant to Government Code section 935, local public agencies may adopt by local ordinance a claim filing requirement for those classes of claims that would otherwise

**SUBJECT:** Ordinance Enacting Local Claims Filing Requirements  
**DATE:** March 19, 2019

be exempted under section 905. The purpose of this Board agenda item is to discuss the merits of adopting such a requirement and propose an ordinance doing so.

The Tort Claims Act (Gov. Code, § 810 et seq.) establishes the basic principles of public agency liability for damage claims, whether those claims sound in tort or contract. Aside from establishing the substantive rules for public agency damages liability, it establishes the procedural rules pursuant to which a claimant may seek a damage award from a public agency. Compliance with these procedural rules, including those requiring the filing of an administrative claim within the applicable six-month or one-year statute of limitation, operate as prerequisites to the filing of a civil action against the public agency.

Accordingly, where there may be substantive liability, the procedural requirements provide public agencies the opportunity to investigate claims timely, to settle meritorious claims short of litigation, to make appropriate fiscal planning decisions, and to reduce litigation expenses and potential judgments. The Tulare County Risk Management team actively investigates claims and pursues settlement when appropriate, often resulting in early compensation to an aggrieved person as well as lower costs to the County.

In addition, procedural rules such as the statutes of limitations serve to bar some stale claims that might otherwise be substantively valid.

The Tort Claims Act, however, does not treat all claims the same. Specifically, the uniform procedures for claims against local public entities are limited by Government Code section 905, which exempts some damage claims from the Tort Claims Act claims-presentation requirements. Government Code section 905 excludes fifteen categories of claims. Included among the list of excluded categories of claims are:

- claims for refunds of taxes; fees, assessments, and other charges;
- claims for principal or interest upon any bond or other financial instrument;
- claims for employment benefits or salaries;
- claims by the State and other public agencies;
- welfare claims;
- stop notice claims on public work projects;
- claims for which workers' compensation is the exclusive remedy;
- claims for unemployment benefits;
- claims by public employees for fees, salaries, wages, mileage or other expenses and allowances; and
- public retirement or pension system claims.

What the Legislature takes with one hand, however, it gives with the other (at least in this instance). Government Code section 935 provides that claims which are excluded from the claims presentation provisions, and which are not governed by other statutes or regulations expressly related thereto, may be covered by local agency charter, ordinance, or regulation. As such, under section 935, local agencies may adopt ordinances that specifically require the filing of an administrative claim for those



**SUBJECT:** Ordinance Enacting Local Claims Filing Requirements  
**DATE:** March 19, 2019

claims that would otherwise be excluded under section 905. This grant of this authority to local agencies has received judicial approval for both charter and general-law agencies.

The enactment of local claims procedures is of great benefit to local agencies. For instance, in the case of *City of Ontario v. Superior Court* (1993) 12 Cal.App.4th 894, the State filed an action against the City for equitable indemnity in a flood damage case. The City demurred on the basis that the State had not filed a claim with the City and that the claim would be barred by the City's statute of limitations. The Court of Appeal agreed. It found that because the State did not comply and could not now comply, the City was saved from a possible indemnity judgment against it.

Another potential benefit of such local claims-filing requirements is to limit an agency's potential liability in the context of delayed/untimely claims for refunds of local taxes, assessments, fees, or other charges.

Similar local claims filing ordinances are in effect in many Counties and Cities, including Fresno, Madera, and Kern Counties, and partially in the City of Visalia.

**FISCAL IMPACT/FINANCING:**

The requested action has no Net County Cost to the General Fund, and could result in some savings to the extent the County is able to investigate and settle claims sooner and less-expensively, and if certain claims become barred for failure to meet the new claims filing requirements.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The requested action will enhance the management of risk and claims against the County, which supports the continued internal growth and development of County departments and services in accordance with the County's Strategic Business Plan Organizational Development Initiative.

**ADMINISTRATIVE SIGN-OFF:**



Jeffrey L. Kuhn

Chief Deputy County Counsel

Cc: County Administrative Office  
Risk Management Division

Attachments Proposed Ordinance (redline format).  
Proposed Ordinance (clean format)

JLK/2017390/2/27/2019 1286564

[Second publication]

ORDINANCE NO. \_\_\_\_\_

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE ADDING SECTION 170 TO THE GENERAL PROVISIONS OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO CLAIMS AND DEMANDS AGAINST THE COUNTY AND/OR ITS OFFICERS OR EMPLOYEES.

SUMMARY OF ADOPTED ORDINANCE

The Ordinance will add section 170 to the General Provisions of the Ordinance Code of Tulare County, pertaining to claims and demands against the County and/or its officers or employees.

The California Tort Claims Act generally requires the filing of an administrative claim for damages as a prerequisite to filing a civil action against a public agency and/or its officers or employees. Fifteen classes of damage claims are exempted from the claim-presentation requirements under Government Code section 905. However, the Tort Claims Act provides local public agencies an opportunity to remove this exemption. Pursuant to Government Code section 935, local public agencies may adopt by local ordinance a claim filing requirement for those classes of claims that would otherwise be exempted under section 905. The purpose of this ordinance is to enact such filing requirements.

This ordinance shall apply retroactively to previously accrued claims. However, any claim that would have been timely if presented on the day before this ordinance becomes effective and which claim would be untimely under the requirements of the this ordinance may, notwithstanding this ordinance, be presented not later than the 45th day after the adoption of this ordinance and be considered timely if so presented.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized was adopted by the Tulare County Board of Supervisors on April 2, 2019, at a regular meeting of said Board.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

COUNTY OF TULARE

By: \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT  
County Administrative Officer/  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

ORDINANCE NO. \_\_\_\_\_

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE ADDING SECTION 170 TO THE GENERAL PROVISIONS OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO CLAIMS AND DEMANDS AGAINST THE COUNTY AND/OR ITS OFFICERS OR EMPLOYEES.

#### SUMMARY OF PROPOSED ORDINANCE

The Ordinance will add section 170 to the General Provisions of the Ordinance Code of Tulare County, pertaining to claims and demands against the County and/or its officers or employees.

The California Tort Claims Act generally requires the filing of an administrative claim for damages as a prerequisite to filing a civil action against a public agency and/or its officers or employees. Fifteen classes of damage claims are exempted from the claim-presentation requirements under Government Code section 905. However, the Tort Claims Act provides local public agencies an opportunity to remove this exemption. Pursuant to Government Code section 935, local public agencies may adopt by local ordinance a claim filing requirement for those classes of claims that would otherwise be exempted under section 905. The purpose of this ordinance is to enact such filing requirements.

This ordinance shall apply retroactively to previously accrued claims. However, any claim that would have been timely if presented on the day before this ordinance becomes effective and which claim would be untimely under the requirements of the this ordinance may, notwithstanding this ordinance, be presented not later than the 45th day after the adoption of this ordinance and be considered timely if so presented.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized will be considered for second reading and adoption by the Tulare County Board of Supervisors on April 2, 2019, at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

ATTEST: JASON T. BRITT, County Administrative Officer/  
Clerk of the Board of Supervisors  
of the County of Tulare

By: \_\_\_\_\_  
Deputy