

# Nine tort-reform bills gain as session wanes

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SACRAMENTO — A comprehensive nine-bill tort reform package — an unusual and highly touted compromise worked out by cities, counties and trial lawyers in the waning weeks of the 1987 legislative session — is expected to be quickly passed by key Assembly and Senate committees this week.

Sponsored by legislators who amended existing bills in order to carry key elements of the package, the bills cap months of negotiations involving the League of California Cities, the County Supervisors Association of California (CSAC), the California Trial Lawyers Association, legislative leaders and the attorney general's office.

An "all-or-nothing" proposition, the bills are "double-joined," which means all must pass, or none will. With the Legislature scheduled to

conclude its session on Sept. 11, the bills must be moved with extraordinary speed.

Among its many provisions, the wide-ranging package — called "landmark legislation" by its supporters — would tighten civil liability for local governments by:

- Limiting city and county liability for accidents caused by natural conditions, such as sandbars.

- Limiting liability for accidents caused by police chases when local governments have guidelines for high-speed pursuits.

- Allowing 10-year structured settlements in large cases.

- Preventing double recovery of damages against a public entity.

- Providing immunity for public officials for negligent acts of public entities.

- Limiting or eliminating the personal liability of corporate directors and officers.



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- Protecting the personal assets of officers and directors of nonprofit corporations.

The bills were heard Monday during unusual back-to-back sessions of the

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## Compromise tort-reform package of nine bills advances

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Assembly and Senate Judiciary committees, with the Assembly committee quickly approving the four Senate bills that came before it and the Senate committee doing likewise with the five Assembly bills. The bills could go to appropriate legislative fiscal committees and then to the Senate or Assembly floors — all in the space of a month after the package was announced Aug. 11.

As a condition of their support for the package, the local government organizations agreed to withdraw their backing of a major tort reform initiative, called the "Fair Liability Act," sponsored by the Association for California Tort Reform (ACTR), which is the same group that backed the successful "deep pockets" initiative, Proposition 51, on the ballot last year.

Gene Livingston, a Sacramento attorney who was the author of Proposition 51 and is heading the successor initiative targeted for the June 1988 ballot, testified against portions of the nine-bill package but did not oppose it entirely.

Livingston said the initiative effort will continue regardless of city and county participation. Their support was a major factor in the passage of Proposition 51 last year. He said individual local officials and municipalities continue to support the proposed initiative.

The nine-bill package offers "immunity for individual cities and supervisors," Livingston said. He added that the proposed initiative has "a much better collateral source proposal," and

he said ACTR is strongly opposed to the double-joining of the nine-bill package.

"Each member should be able to decide on each bill on its merits," Livingston told the Assembly committee Monday. "But as it is, these bills are double-joined and there is no opportunity to analyze them [individually]."

Assemblyman Elihu Harris, D-Oakland, chairman of the Assembly Judiciary Committee, said "it's an all-or-nothing deal."

"I think that's bad policy," Livingston responded.

"If it was your bill, you'd say it was good policy," Harris retorted.

Assembly Speaker Willie Brown, a principal author of major portions of the package, said in a prepared statement that the proposals are "a carefully structured agreement that will save the state's taxpayers the millions of dollars it would have cost to decide this issue by initiative."

"It's an agreement that I support, and one we will all work to see pass," Brown said. "This issue is one that has long needed this kind of serious consideration and understanding. This shows that concerned citizens can sit down, work out their differences and come up with a reasonable compromise."

California Trial Lawyers Association president Browne Greene said the package is expected to reach the governor's desk before the Legislature adjourns.

"The package moving through the Legislature

represents good public policy reached through good faith negotiations," Green said. "It is something legislators have asked for, and the cities and counties support."

The package's future is uncertain when it reaches the desk of Gov. George Deukmejian.

Special Assistant Attorney General Michael Strumwasser, a key player in the negotiations for the compromise legislation, would make no predictions about the governor's view of the package.

Strumwasser said the negotiations leading to the legislation were lengthy and represent the first time some legislative agreement has been possible on the volatile subject of tort reform — which has frequently been introduced in various forms in the Legislature and just as frequently killed.

"We've been on the cusp of this," he said. "The difference now is that the session is almost over. Nothing is clarifying like a deadline."