

Tort Reform Package Amended to Avert Veto

BY SIGRID BATHEN
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SACRAMENTO — In an eleventh-hour legislative maneuver, a nine-bill tort reform package to limit local government liability has been amended in the state Senate into one bill designed to avert a governor's veto.

AB 1173 — which was a bill by Assemblyman Elihu Harris, D-Oakland, affecting the retirement age and benefits of senior judges — was amended late Tuesday.

Now it includes nine bills introduced last month after lengthy negotiations involving local governments, legislative leaders, trial lawyers and the attorney general's office. The bill was expected to be passed by the Senate Thursday and then go on to the Assembly for concurrence and then to the governor.

The bill is now sponsored by Assembly Speaker Willie Brown, D-San Francisco, and eight legislators, all of whom wrote various parts of the original nine-bill package. The bill was "double-joined" when introduced, meaning that all of the bills must pass, or none will.

Gov. George Deukmejian reportedly dislikes double-joined bills, and legislative leaders feared he might veto one bill and therefore kill the entire package. But the governor's office will not comment on bills until they have been analyzed fully prior to signature or veto.

"We want to make it as easy as possible for the governor to sign it," said Frank Russo, legal counsel to the speaker.

The package is widely supported by other groups with considerable statewide clout — the League of California Cities, the County Supervisors Association of California, the California Trial Lawyers Association, the attorney general's office and statewide law enforcement organizations.

But California Chamber of Commerce president Kirk West urged Deukmejian to veto two of the nine bills, which in effect would kill the entire package. The two bills were AB 2616 by Speaker Brown, which would prevent double recovery of damages against a public agency, and SB 1382 by Sen. Bill Lockyer, D-Hayward, which would reduce the liability of a public agency in property damage cases when the property owner's negligence contributed to the damage.

In agreeing to support the tort reform proposals, the supervisors and cities associations withdrew their support for a proposed initiative — the Fair Liability Act, sponsored by West and the Association for California Tort Reform, which sponsored the successful Proposition 51 campaign last year. The proposed initiative is touted as the successor to the so-called "deep pockets" initiative that promised but failed to deliver reduced liability insurance premiums for local government.

"We're satisfied, quite frankly, with anything that comes out," said legislative advocate Michael Corbett of the supervisors association. "We prefer not to be involved in the political machinations. We prefer to leave those concerns to the people across the street [in the Capitol]."

Among its many provisions, the package would:

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

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

- Allow 10-year structured settlements in large cases.

- Prevent double recovery of damages against a public entity.

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

- Limit or eliminate the personal liability of corporate directors and officers.

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

The Harris bill that was amended in the Senate Tuesday to include the tort reform package started as a measure permitting senior judges to work beyond age 70 without affecting their retirement benefits. John Waldie, legislative assistant to Harris, said the measure would allow judges to take retirement later without penalty to their retirement allowances.

But the tort reform bill maneuver meant completely replacing the judges' retirement provisions, which theoretically must be transplanted to another bill, passed by the Senate, sent back to the Assembly for concurrence and then moved on to the governor for ratification.

The judges' measure had passed the Assembly and was to be taken up in the Senate this week.

Secret Talks Held to Stop 1988 Battle

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SACRAMENTO — Negotiators for the state's trial lawyers, tort reformers and the insurance industry late Thursday concluded closed-door negotiations over a possible initiative battle next year — with broad tort reform legislation seen as possible in the legislative session's final day, according to informed sources.

Designed to avert an expensive initiative fight next year, the negotiations have been rumored in Sacramento for weeks. The proposed initiative, called the Fair Liability Act, has been targeted by tort reformers for the June 1988 ballot. Those reformers, part of the Association for California Tort Reform, succeeded last year with Proposition 51, which was strongly opposed by the California Trial Lawyers Association.

If a legislative package emerges, it would be expected to include key elements of the proposed initiative and the Personal Injury Compensation Reform Act, which was killed earlier this legislative session.

Among its many provisions, the proposed initiative would limit attorney contingency fees, restrict product liability and require evidence "beyond a reasonable doubt" for awarding of punitive damages.

A CTLA spokeswoman would not confirm details of possible legislation, but it is expected that any legislative proposal would contain compromise measures on matters of concern to participants in the negotiations, such as attorney contingency fee limits.

"They're talking, and they're still talking," said CTLA spokeswoman Bobbie Metzger late Thursday. She refused to discuss specific aspects of the discussions.