

DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CDF)
SAMPLE 1998 LEGISLATIVE PROPOSAL CONCEPT PAPER (0500)
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TITLE: Small Claims Court - Increase Allowable Filings

STATEMENT OF PROBLEM: Frequently, California Department of Forestry and Fire Protection (CDF) Ranger Units throughout the state file cases in small claims court to recover amounts owed to the department. The current jurisdictional limit to small claims court cases is \$5,000, but present law limits state agencies and private entities to filing no more than two cases in the amounts of \$2,500 to \$5,000 per year. Local government agencies, however, have no limit on the number of cases they can file per year in those amounts.

PROPOSED SOLUTION: Change current law to add state agencies, or perhaps only CDF, to the list of local governmental agencies that are not subject to the two-case limit per year in amounts over \$2,500.

CONSEQUENCE OF INACTION: After years of budgetary cuts, state agencies are as strapped financially as are local agencies in terms of statutory mandates and limited resources to fulfill those mandates. With its decentralized operations, CDF finds that it is owed relatively small amounts of money from a variety of contracts and torts throughout the state. The filing limitation causes a loss of reimbursement opportunities from businesses with whom CDF has contract disputes, owners of motor vehicles involved in property-only traffic accidents with CDF vehicles, negligently-caused fires, and arson.

ALTERNATIVES: Introduce legislation patterned after a successful pilot project which demonstrated that San Francisco and Stanislaus County could cost effectively recover various losses through the small claims process.

OTHERS AFFECTED: Other state agencies may include, but not be limited to, the following: Department of Water Resources, Department of Fish and Game, Department of Parks and Recreation, CALTRANS, Department of Corrections, Highway Patrol. Some people may have concerns about the Franchise Tax Board using small claims courts as a collection agency for taxes owed.

HISTORY: When the jurisdictional limit for small claims court was raised to \$5,000, the Legislature was concerned about collection agencies using the small claims courts to harass people. Accordingly, the Legislature inserted the limitation that any person could file only two claims per year above \$2,500. In AB 1755 of 1991, the Legislature authorized a pilot project in San Francisco and

Stanislaus County to see if there would be a benefit to local government in being able to recover an unlimited number of claims up to \$5,000 each year. Based on favorable results in the pilot project, the Legislature passed AB 2937 in 1994. The bill declared that there were benefits to public agencies generally, but the bill language only gave the authority to local governments for the unlimited number of claims above \$2,500.

FISCAL AND ECONOMIC IMPACT: This proposal would increase the degree of recovery of amounts owed to CDF from a variety of causes including fire costs, contracts, and torts including traffic accidents. Whereas most CDF small claims cases are now limited to \$2,500 each, CDF could seek to recover up to \$5,000 per claim at approximately the same cost for recovery. The potential could be literally hundreds of cases annually for which CDF could recoup losses.

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Legislative Proposal for Small Claims Court
Increase Allowable Number of Filings for State Agencies

Section 1. Section 116.231 of the Code of Civil Procedure is amended to read:

116.231. (a) Except as provided in subdivision (d), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars (\$2,500), anywhere in the state in any calendar year.

(b) Except as provided in subdivision (d), if the amount demanded in any small claims action exceeds two thousand five hundred dollars (\$2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars (\$2,500) have been filed by that party in this state within the calendar year.

(c) The Legislature finds and declares that the pilot project conducted under the authority of Chapter 1196 of the Statutes of 1991 demonstrated the efficacy of the removal of the limitation on the number of actions public entities may file in the small claims courts on claims exceeding two thousand five hundred dollars (\$2,500).

(d) The limitation on the number of filings exceeding two thousand five hundred dollars (\$2,500) does not apply to filings where the claim does not exceed five thousand dollars (\$5,000) which are filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity. If any small claims action is filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity pursuant to this section, and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred to the municipal court. A city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity may not file a claim within the small claims division if the amount of the demand exceeds five thousand dollars (\$5,000).

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