

Our Liability System for Public Entities is Out of Balance

California's liability laws expose public agencies to rapidly escalating claims and force taxpayers to pay far more than an agency's fair share. The result is a system that rewards deep-pocket targeting, drives up litigation costs, and diverts public dollars away from the services Californians rely on.

JOINT AND SEVERAL LIABILITY

Public Agencies Have to Pay for Someone Else's Mistakes

California operates under a hybrid joint and several liability system. Defendants are proportionally responsible for non-economic damages (pain and suffering). But economic damages (medical expenses, lost wages, estimated future care) are treated differently.

Public agencies have identifiable assets and taxpayer-funded resources, making them a desirable target for plaintiff attorneys when a responsible party is unable to pay.

Under California law, a public agency found even 16% at fault can be forced to pay 100% of the economic damages. For this reason, public entities are often added to lawsuits even when they have little or no involvement in the incident. Attorneys inflate the economic damages and then leverage this 16% standard for generous settlements.

Legal Loopholes Magnify the Cost for Public Agencies

Pure Comparative Negligence

Allows plaintiffs to recover damages from a public entity even when the plaintiff is primarily responsible for their own injuries.

No Statutory Cap on Damages

No set limit on economic and non-economic damages, allowing for unlimited multi-million dollar payouts.

Broad Dangerous-Condition Standards

Expose agencies to liability when public property is alleged to have contributed to an injury caused primarily by someone else.



Together, these rules can turn limited public agency involvement into a **multimillion-dollar taxpayer obligation.**



Public Entity Claims Costs are Rising at an Unsustainable Rate

The biggest driver is soaring claim costs, fueled by sympathetic juries awarding massive judgments disconnected from facts or fault—and pushing public agencies into multimillion-dollar settlements.



\$2B+ in Annual Public Payouts



4.5X Cost Increase in Last Decade



+65% Projected Growth 2027-28



Claims exceeding \$1 million now account for the majority of California public agencies' total liability costs. By fiscal year 2024–25, the largest and fastest-growing share of that exposure came from claims exceeding \$5 million.

THERMONUCLEAR CLAIMS

More than \$25 million

Thermonuclear claims were virtually nonexistent before fiscal year 2021–22. Today, public agencies are confronting multiple claims of \$25 million+ each year.

Lawsuit Payouts Come from Taxpayer Services

These massive settlements and verdicts do not come from an unlimited fund or even insurance companies. They are paid with public dollars that would otherwise support police and fire protection, schools, roads, parks, infrastructure, and services for California's most vulnerable residents.

For more information, visit: protectlocalservices.org

What's Driving Claim Costs Higher?

Public liability claim costs are rising faster than general inflation—a trend known as “**social inflation**,” driven by litigation practices, shifting jury attitudes, and third-party litigation funding. California’s legal system allows medical expenses and other damages to grow, rewards attorneys for pursuing the largest possible payouts, and magnifies public agency exposure through plaintiff-favored liability rules.

DEEP POCKET TARGETING

Public agencies have identifiable assets and taxpayer-funded resources. That makes cities, counties, schools, and special districts attractive targets for plaintiffs’ attorneys looking for a defendant with the presumed ability to pay, even when their role in an incident is limited.

THIRD-PARTY LITIGATION FUNDING

Outside investors can finance lawsuits in exchange for a portion of any settlement or judgment. When litigation becomes an investment opportunity, outside financial interests may prolong cases and discourage reasonable settlements, increasing costs for public agencies and taxpayers.

ATTORNEYS PROFIT FROM BIGGER PAYOUTS

California generally places no statutory cap on contingency fees in lawsuits against public agencies. Attorneys commonly collect 30-40% of a recovery. After additional litigation expenses are deducted, the combination of attorney fees and litigation expenses may consume over 50% of a payout before the plaintiff receives compensation. The larger the award, the larger the attorney payday.

INFLATED MEDICAL COSTS

Artificially inflated medical bills, treatment liens, long-term care estimates, and projections of future medical expenses can substantially increase a claim’s economic damages. In some cases, plaintiffs intentionally pursue treatment outside their insurance networks and submit bills far exceeding the rates insurers would ordinarily pay for the same services.

FEWER INSURANCE OPTIONS FOR PUBLIC ENTITIES

California’s worsening liability environment is driving insurers out of the public-entity market. Fewer options mean less competition, reduced coverage capacity, and substantially higher costs for taxpayers.

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Restoring Fairness

Californians for Protecting Local Services is fighting for balanced liability reform that preserves injured Californians' right to fair compensation while protecting public agencies from financially devastating liability that threatens essential services.



Reasonable Limits on Damages – Establish defined limits that ensure fair compensation while preserving public agencies' ability to deliver essential services. Thirty-nine other states limit public-entity liability through defined limits on compensation. California already imposes limits in medical malpractice cases under MICRA, recognizing the public interest in reasonable safeguards. Similar protections should apply when awards are paid with taxpayer dollars.



Proportional Liability – Eliminate joint and several liability for public agencies. Align financial responsibility with actual fault so public agencies are not forced to absorb damages caused primarily by others.



Stronger Evidence Standards – Strengthen standards for claims involving older incidents, when records, witnesses, and other critical evidence may no longer be available, to help guard against fraud and abuse while preserving access to justice for legitimate claims.



Regulate Hedge Fund Profiteering – Hedge funds and other outside investors should not be allowed to secretly profit from lawsuits paid with taxpayer dollars or control cases to maximize their returns. California should require litigation funders to disclose their involvement, register with the state, limit their recoveries, and prohibit them from influencing legal or settlement decisions.



Eliminate Litigation Gamesmanship – Plaintiffs' attorneys and those who enable them use litigation tactics to maximize their profits at taxpayers' expense. California should establish anti-anchoring rules that prevent either party in a lawsuit from assigning a dollar amount to noneconomic damages during trial.

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