



CITY OF SACRAMENTO

DEPARTMENT OF LAW

812 TENTH STREET  
SUITE 201

SACRAMENTO, CA 95814  
TELEPHONE (916) 449-5346

April 25, 1986

JAMES P. JACKSON  
City Attorney  
THEODORE H. KOBAY, JR.  
Assistant City Attorney  
SAMUEL L. JACKSON  
WILLIAM P. CARNAZZO  
LAWRENCE M. LUNARDINI  
DIANE B. BALTER  
RICHARD F. ANTOINE  
TAMARA L. MILLIGAN-HARMON  
Deputy City Attorneys

Law and Legislation Committee  
City Hall  
Sacramento, California

SUBJECT: SB 1694 (Bergeson)

SUMMARY

It is recommended that the City of Sacramento support SB 1694, and express its support to the Legislature.

BACKGROUND

In a case entitled Gonzales v. City of San Diego (1984) 156 Cal. App. 3d 256; 202 Cal. Rptr. 634, the court held that the City of San Diego was liable for the drowning of an individual in the surf because it provided too few lifeguards.

Under the law which existed at that time, and which still exists, there is an immunity for public entities for injury caused by the natural condition of any unimproved public property, which includes lakes, streams, bays, rivers or beaches. The court held in the Gonzales case that the city could not take advantage of this immunity because it had provided lifeguards in the past.

The purpose of this bill is to negate the effect of the Gonzales case. The fact that the public entity provides lifeguards, park rangers or other safety personnel who render services to the public in the unimproved public property, does not cause a loss of the natural condition immunity. For that reason, this bill would benefit any public agency which maintains such facilities.

RECOMMENDATION

It is recommended that the City of Sacramento support SB 1694, and express its support to the Legislature.

Respectfully submitted,

*James P. Jackson*  
JAMES P. JACKSON  
City Attorney

SAMPLE RESOLUTION

WHEREAS, it is of vital public interest that the public be permitted use of unimproved public property for recreational purposes; and

WHEREAS, public entities will be forced to close or restrict the use of their property due to the expense of insuring against, defending, and paying claims for injuries sustained by persons using such property; and

WHEREAS, public entities should not lose their immunity because they have taken steps to protect the safety and welfare of those using public property; and

WHEREAS, a court, in the case of Gonzales v. The City of San Diego, has determined that the provision of lifeguard service eliminates a governmental agency's traditional immunity for accidents occurring on public property in its natural state,

NOW, THEREFORE, BE IT RESOLVED that the City Council [Board of Supervisors] of \_\_\_\_\_ supports SB 1694 (Bergeson) and urges the California State Legislature to adopt that legislation as quickly as possible to restore the longstanding immunity for governmental agencies related to public property in its natural condition so that lifeguard service and other public safety personnel will continue to be provided for the benefit of the public.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 1986.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Introduced by Senator Bergeson**

February 5, 1986

---

An act to amend Section 831.2 of the Government Code, relating to public liability.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1694, as introduced, Bergeson. Public liability: natural conditions.

Under existing law, neither a public entity nor a public employee is liable for an injury caused by a natural condition of any unimproved public property.

This bill would provide that that immunity only applies to damages caused by a dangerous condition of public property, but that it applies notwithstanding the past or current provision of services by lifeguards, park rangers, or other persons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares as  
2 follows:  
3 (a) It is of vital public interest that the public be  
4 permitted use of unimproved public property for  
5 recreational purposes.  
6 (b) Public entities will be forced to close or restrict the  
7 use of their property due to the expense of insuring  
8 against, defending, and paying claims for injuries  
9 sustained by persons using such property.  
10 (c) Public entities should not lose their immunity  
11 because they have taken steps to protect the safety and  
12 welfare of those using public property.

1 SEC. 2. Section 831.2 of the Government Code is  
2 amended to read:

3 831.2. (a) Neither a public entity nor a public  
4 employee is liable for an injury caused by a natural  
5 condition of any unimproved public property, including  
6 but not limited to any natural condition of any lake,  
7 stream, bay, river or beach. *This immunity applies only*  
8 *to damages caused by a dangerous condition of public*  
9 *property.*

10 (b) *The immunity established by this section applies*  
11 *notwithstanding the past or current provision of services*  
12 *by lifeguards, park rangers, or other persons who render*  
13 *services for the public.*