

California Government Code

Section 840.2 - 840.6

Employee Liability

840. Except as provided in this article, a public employee is not liable for injury caused by a condition of public property where such condition exists because of any act or omission of such employee within the scope of his employment. The liability established by this article is subject to any immunity of the public employee provided by statute and is subject to any defenses that would be available to the public employee if he were a private person.

840.2. An employee of a public entity is liable for injury caused by a dangerous condition of public property if the plaintiff establishes that the property of the public entity was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:

- (a) The dangerous condition was directly attributable wholly or in substantial part to a negligent or wrongful act of the employee and the employee had the authority and the funds and other means immediately available to take alternative action which would not have created the dangerous condition; or
- (b) The employee had the authority and it was his responsibility to take adequate measures to protect against the dangerous condition at the expense of the public entity and the funds and other means for doing so were immediately available to him, and he had actual or constructive notice of the dangerous condition under Section 840.4 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.

840.4. (a) A public employee had actual notice of a dangerous condition within the meaning of subdivision (b) of Section 840.2 if he had actual personal knowledge of the existence of the condition and knew or should have known of its dangerous character.

(b) A public employee had constructive notice of a dangerous condition within the meaning of subdivision (b) of Section 840.2 only if the plaintiff establishes (1) that the public employee had the authority and it was his responsibility as a public employee to inspect the property of the public entity or to see that inspections were made to determine whether dangerous conditions existed in the public property, (2) that the funds and other means for making such inspections or for seeing that such inspections were made were immediately available to the public employee, and (3) that the dangerous condition had existed for such a period of time and was of such an obvious nature that the public employee, in the exercise of his authority and responsibility with due care, should have discovered the condition and its dangerous character.

840.6. (a) A public employee is not liable under subdivision (a) of Section 840.2 for injury caused by a dangerous condition of public property if he establishes that the act or omission that created the condition was reasonable. The reasonableness of the act or omission that created the condition shall be determined by weighing the probability and gravity of potential injury to persons and property foreseeably exposed to the risk of injury against the practicability and cost of taking alternative action that would not create the risk of injury or of protecting against the risk of injury.

(b) A public employee is not liable under subdivision (b) of Section 840.2 for injury caused by a dangerous condition of public property if he establishes that the action taken to protect against the risk of injury created by the condition or the failure to take such action was reasonable. The reasonableness of the inaction or action shall be determined by taking into consideration the time and opportunity the public employee had to take action and by weighing the probability and gravity of potential injury to persons and property foreseeably exposed to the risk of injury against the practicability and cost of protecting against the risk of such injury.