JUNE 2026

The Cost of Claims:
What It Means for California's Communities

PEPPERDINE
School of Public Policy

BEACON ECONOMICS

Alternative Viewpoints on California Policy

Alternate Viewpoints on California Policy is a research initiative of the Pepperdine School of Public Policy in partnership with the respected California-based economic research firm, Beacon Economics. Through the collaboration on a series of white papers, the Beacon Economics' team and the School of Public Policy's academic researchers and graduate students will explore vital California policy issues and debates from a different perspective in the hope of driving balanced debates. The ultimate goal of this research is to steer our common policy narratives toward more data-based understandings, in turn shining light on the kinds of public policies needed to return our state and its many regions to its longstanding position as the nation's growth engine.

Learn more at publicpolicy.pepperdine.edu/institutes-initiatives/alternative-viewpoints-research-initiative.htm

About Beacon Economics

Founded in 2006, Beacon Economics, an LLC and certified Small Business Enterprise with the state of California, is an independent research and consulting firm dedicated to delivering accurate, insightful, and objectively based economic analysis. Employing unique proprietary models, vast databases, and sophisticated data processing, the company's specialized practice areas include sustainable growth and development, real estate market analysis, economic forecasting, industry analysis, economic policy analysis, and economic impact studies. Beacon Economics equips its clients with the data and analysis they need to understand the significance of on-the-ground realities and to make informed business and policy decisions.

Learn more at beaconecon.com

About the Pepperdine School of Public Policy

The Pepperdine School of Public Policy exists as one of America's few graduate public policy schools rooted in the protection and promotion of America's founding principles including free markets, limited and responsive government, and moral civic leadership. The master of public policy, customizable with five specializations, prepares future policy leaders for influential careers in government, at all levels, as well as the policy-related business and nonprofit sectors. The degree is widely recognized for its distinctive liberal arts curriculum that balances a rigorous study of philosophy and history with cutting-edge skills in quantitative economics and policy analysis.

Learn more at publicpolicy.pepperdine.edu

This research was supported by the Arthur N. Rupe Foundation and the California Association of Joint Powers Authorities (CAJPA). The research design, analysis, and conclusions were determined independently by the authors.

Project Team

Christopher Thornberg, PhD
Founding Partner, Beacon Economics; Research Fellow, Pepperdine School of Public Policy

Niree Kodaverdian, PhD
Research Manager, Beacon Economics

Christopher Carr
Research Associate, Beacon Economics

Dharaneeshwar Prakash
Research Intern, Beacon Economics

For further information about this report or to learn more about Alternate Viewpoints on California Policy, please contact:

Sherif Hanna
Managing Partner, Beacon Economics
sherif@beaconecon.com

Victoria Bond
Director of Marketing and Communications, Beacon Economics
victoria@beaconecon.com

Lena Pacifici
Director of Marketing and Communications, Pepperdine School of Public Policy
lena.pacifici@pepperdine.edu

Table of Contents

Executive Summary **5**

Introduction **9**

Methodology **10**

Part I. Analysis of Claims Data **13**

A. Frequency of Occurrences and Claims Filed 13

B. Frequency of Occurrences Closed 15

C. Frequency of SAM Occurrences Filed and Closed 16

D. Severity of Occurrences and Claims Closed (Dollar Value) 19

E. Severity of SAM Occurrences Closed (Dollar Value) 31

F. Liability Trends Excluding SAM Claims 33

G. Resolution Timelines for Occurrences and Claims 36

Part II. Liability Exposure and Insurance Trends Across Public Entities **39**

Part III. Liability Exposure in Relation to Departmental Operating Budgets **47**

Part IV. Legal Framework **49**

Compensatory Damages Against Public Entities 49

A. Pure Comparative Negligence 50

B. Dangerous Conditions of Public Property 50

C. Joint and Several Liability 52

D. Collateral Source Rule 54

E. MICRA 56

F. General Statutory Caps 59

G. Sexual Assault Claims 60

Part V. Proposed Solutions **61**

A. Shift from Comparative Negligence to Modified Comparative Negligence 62

B. Dangerous Condition of Public Property Reforms 63

C. Joint and Several Liability Reforms 66

D. Collateral Source Rule Reforms 69
E. MICRA-Inspired Reforms 72
F. Structured Damage Caps 76
Part VI. Spotlight Cases 79
A. Sidewalk and Roadway Maintenance Exposure 79
B. Third-Party Conduct and Joint & Several Liability Exposure 80
C. Catastrophic Injury and Wrongful Death Exposure 83
D. Expanding Legal Theories of Public Liability 84
Conclusion 86

Executive Summary

California public entities are facing growing liability costs. While claim volumes have increased in recent years, the more significant trend is the rise in high-severity claims, which are accounting for a growing share of total liability exposure and placing increasing pressure on local budgets.

The legal environment in which public entities operate is an important part of this story. Unlike some other states, California does not impose general statutory caps on compensatory damages in tort claims against government entities. It also applies legal frameworks that may increase exposure in catastrophic injury cases, including pure comparative negligence, broad dangerous condition liability standards, joint and several liability for economic damages, and a plaintiff-favorable collateral source rule.

Using statewide claims data collected through the California Association of Joint Powers Authorities (CAJPA) and Polco, this report by Beacon Economics examines how liability trends are evolving, the legal and policy context in which those trends are occurring, and what they may mean for local budgets.

Key Findings

1. The fiscal challenge is not just more claims – it's more high-severity claims.

Claim volumes were stable for most of the past decade. They declined during the pandemic, before rising sharply from fiscal year 2021–22 onward. However, the primary driver of fiscal pressure is not volume, but the rise in high-severity claims.

2. Sexual Abuse and Molestation (SAM) claims have grown noticeably.

After remaining relatively stable for much of the last decade, SAM occurrence filings increased substantially after 2020. This increase coincides with AB 218 and AB 452, which expanded the statute of limitations for childhood sexual assault claims and increased liability exposure in this category.

3. High-severity claims account for a growing share of liability exposure.

Occurrences exceeding $1 million still represent less than 1% of total occurrences (rising from about 0.2% in fiscal year 2010–11 to 0.9% in fiscal year 2024–25), but now account for nearly 70% of total dollar exposure, up from 37%. The trend does not appear to be driven solely by a small number of extreme outliers—there has been a

clear increase in high-cost claims across the board, from large to "nuclear" ($10 million to $25 million) and beyond, reflecting a broader shift toward more severe liability exposures. While SAM claims have contributed to this trend in recent years, similar increases in claim severity remain evident even after SAM claims are excluded from the analysis.

4. Financial exposure is compounding due to the slow resolution of large claims.

While most occurrences are resolved within two years, large claims typically take two to seven years to close, and in some cases (11%), more than a decade. As more high-severity claims are being filed, public entities are carrying larger amounts of unresolved liability exposure over longer periods of time. As of fiscal year 2024–25, approximately 23,500 occurrences and over 28,000 claims remain open.

5. Liability exposure is translating into measurable fiscal impacts at the local level.

Rising claim severity and prolonged resolution periods are increasing direct retained losses, while contributing to higher pool and reinsurance costs. As liability-related payments grow, public entities must finance those costs through higher contributions, use of reserves, revenue adjustments, or changes in spending priorities. Liability-related payments—including self-insured retention (SIR) payments and reinsurance premiums—represent significant shares of annual departmental expenditures. In certain departments, liability-related expenditures now represent substantial shares of annual operating budgets.

These trends are occurring within a legal framework that differs from many other states and may contribute to both the magnitude and unpredictability of public entity liability exposure.

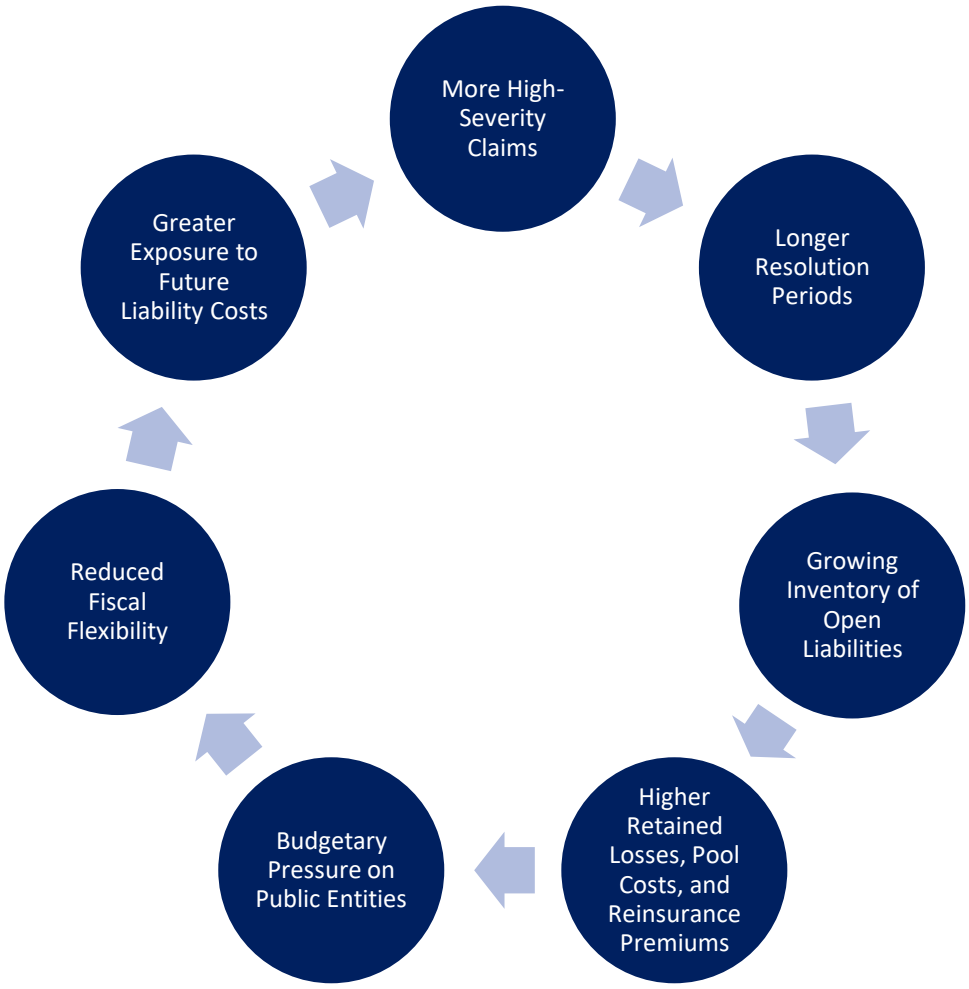
Legal Context

California's tort framework differs from many states in several important respects:

- **No general statutory caps** on compensatory damages for public entities.
- **Pure comparative negligence**, allowing recovery even when plaintiffs are significantly at fault.
- **Broad liability standards for dangerous condition of public property**
- **Joint and several liability for economic damages** regardless of fault share.
- **Limited use of collateral source offsets.**
- **No general contingency fee limitations** outside of medical malpractice actions.

Collectively, these legal features may contribute to greater liability exposure, higher litigation costs, and less predictable outcomes compared to states that employ damage caps, modified comparative fault thresholds, broader collateral source reforms, or more limited forms of joint and several liability.

The Public Liability Cost Cycle



Policy Options

Drawing on approaches used in other states and lessons from the Medical Injury Compensation Reform Act (MICRA), this report outlines several potential reforms that could improve predictability and fiscal stability, while continuing to provide avenues for compensation for injured parties, including:

- Modified comparative negligence standards.
- Dangerous condition of public property reforms.
- Joint and several liability reforms, including fault-threshold systems and proportionate liability approaches.
- Collateral source rule reforms.

- **Expanded and more flexible periodic payment** mechanisms for large awards.
- **Structured contingency fee limitations** modeled on MICRA.
- **Structured damage caps** on liability exposure.

Spotlight Cases

The report also includes a review of illustrative high-severity cases that provide additional context on the types of incidents and legal theories underlying some of the largest liability exposures faced by California public entities.

Conclusion

The data suggest that California public entities face growing liability exposure not simply because there are more claims, but because large, high-severity claims are becoming more common and taking longer to resolve. The report further suggests that California's current liability framework may amplify fiscal exposure in cases involving catastrophic injuries, dangerous condition claims, third-party conduct, and substantial future economic damages. As these types of claims become more frequent and remain unresolved for longer periods of time, liability costs are likely to continue increasing absent policy changes.

The question for policymakers is not whether injured individuals should be compensated, but how to balance fair recovery with the long-term fiscal sustainability of the public agencies responsible for providing essential services across the state.

Introduction

California public entities currently operate in a liability environment that exposes them to substantial and growing fiscal risk. Unlike many states, California does not impose general statutory caps on compensatory damages against public entities and applies legal frameworks that may increase exposure in catastrophic injury and dangerous condition cases, including pure comparative negligence, broad dangerous condition liability standards, and joint and several liability for economic damages. As claims increase in both frequency and severity, cities, counties, school districts, and other public agencies are facing rising costs, tightening insurance markets, and growing pressure on local budgets. This report by Beacon Economics examines how those trends are evolving and what options exist to better manage risk while continuing to provide avenues for compensation for injured parties.

This analysis builds on claims data collected from public entities statewide through the California Association of Joint Powers Authorities (CAJPA) in partnership with Polco. Earlier findings showed increasing claim frequency and rising payouts, particularly among large claims exceeding $1 million. This report updates those findings with new data and puts the results in a broader fiscal context by comparing liability costs to departmental operating budgets and general fund capacity. The report also examines how California's current tort framework may amplify exposure through broad dangerous condition doctrines, comparative fault allocation, and joint and several liability for economic damages. The goal is to better understand the fiscal tradeoffs public entities face as liability costs rise, whether through deferred infrastructure investment, reduced classroom resources, constrained public safety spending, or other budgetary pressures.

This report has six parts. First, it analyzes updated claims data and highlights key trends in claim frequency, severity, and resolution timelines. Second, it examines liability exposure and insurance trends across different categories of California public entities. Third, it places those trends in a fiscal context by comparing liability costs to departmental operating budgets. Fourth, it outlines the current legal framework governing public entity liability in California. Fifth, it reviews policy approaches from California and other states to identify potential reforms that could help limit risk for public entities while preserving access to compensation. Finally, selected spotlight cases are used to illustrate the scale and practical implications of these trends in litigation.

Methodology

Participating Entities

Multiple public entities provided claims data to Polco for this project, reflecting growing concern over the increasing frequency and severity of liability claims. The participating entities represent a broad cross-section of risk pools serving cities, counties, school districts, and special districts across California.

In 2024, participating organizations included the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA); several California Affiliated Risk Management Authorities (CARMA); the California Joint Powers Risk Management Authority (CJPRMA); the North Bay Schools Insurance Authority (NBSIA); Public Risk Innovation, Solutions, and Management (PRISM); the Redwood Empire Schools' Insurance Group (RESIG); the Schools Excess Liability Fund (SELF); and the School Insurance Authority (SIA).

In 2025, participation expanded to include additional organizations, including the California Risk Management Authority (CRMA), Golden State Risk Management Authority (GSRMA), Northern California Cities Insurance Fund (NCCSIF), Small Cities Organized Risk Effort (SCORE), and the Monterey Bay Area Self-Insurance Authority (MBASIA). Three CARMA-affiliated entities that participated in earlier data collections did not participate in 2025: the California Transit Indemnity Pool (CALTIP), the Central San Joaquin Valley Risk Management Authority (CSJVRMA), and the Pooled Liability Assurance Network Joint Powers Insurance Authority (PLAN JPA).

For clarity, the analyses presented in this report are based exclusively on the 2025 data collection. The discussion of the 2024 and 2025 participating organizations is provided solely to document the evolution of the data collection effort and should not be interpreted as indicating that different survey "waves" were combined to produce the trend analyses. Participating organizations provided historical claims and occurrence records spanning multiple prior fiscal years, generally extending back to at least fiscal year 2010–11. Consequently, organizations participating in the 2025 data collection contributed their full available historical records rather than only data for fiscal year 2024–25. As a result, the reported trends are not driven by the addition of new survey participants over time, and year-to-year changes in claims and occurrence volumes do not simply reflect expansion of the survey roster.

Independent Analysis

The following section presents analyses conducted by Beacon Economics using claims data provided by Polco. While Polco previously performed its own analysis of the dataset, Beacon independently reanalyzed the underlying data

for nearly all figures and findings presented in this report. In several instances, Beacon's analytical approach differs from Polco's original methodology, particularly where the inclusion of City of Los Angeles data for only a subset of the study period could have affected the interpretation of long-term trends. Where findings are reported directly from Polco's analysis rather than independently replicated by Beacon Economics, this is identified in the accompanying footnotes.

Pool Premiums and Reinsurance

This report focuses primarily on direct liability costs as reflected in claims and occurrence data provided by participating public entities. The survey administered by Polco did not collect data on member pool premiums, which represent an additional financial consequence of rising liability exposure that is therefore not directly quantified in this report.

However, the survey did collect data on reinsurance (excess insurance) premiums. Although reinsurance premiums do not capture the full cost borne by participating entities, they reflect a closely related component of liability financing and are generally expected to move in the same direction as underlying pool premiums over time, as both are influenced by changes in claims experience, loss severity, and overall liability risk. Accordingly, the analyses of reinsurance premiums presented in this report provide insight into broader insurance cost pressures facing California public entities, while recognizing that they do not represent the total premium impacts experienced by member agencies.

Filing Lag

Because liability claims are often reported with a lag between the underlying incident and claim filing (up to two years in some cases), fiscal year 2024–25 data may be incomplete and not fully representative of all claims incurred during that fiscal year, despite data collection occurring after the end of the fiscal year.

Filing Year vs. Closing Year

The analyses presented in this report utilize both filing-year and closing-year perspectives, as each provides different information about liability exposure. Filing-year analyses are used primarily to examine trends in claim and occurrence frequency, while closing-year analyses are used primarily to evaluate realized claim severity and financial exposure. This distinction is particularly important because liability claims often remain open for multiple years, and the ultimate cost of an open claim or occurrence may differ substantially from preliminary estimates.

Consistent with data-sharing restrictions established for this project, analyses involving claim or occurrence values are limited to closed claims and closed occurrences. Because the ultimate financial outcome of an open claim

remains uncertain until resolution, closed claims provide the most reliable measure of realized liability exposure and allow for consistent comparisons across fiscal years.

Occurrence vs. Claim

Throughout this report, an *occurrence* refers to the underlying event or incident giving rise to liability, while a *claim* refers to an individual request for compensation arising from that event. A single occurrence may generate multiple claims. For example, a vehicle collision involving a public agency vehicle may result in separate claims from multiple injured parties. As a result, claim counts are generally higher than occurrence counts.

City of Los Angeles

A methodological limitation concerns data for the City of Los Angeles, which was provided separately by Polco using information directly from the Los Angeles City Clerk's public claims platform. Unlike the broader pooled dataset, which contains both claim-level and occurrence-level information extending back to at least fiscal year 2010–11, the City of Los Angeles data was only available at the occurrence (master claim) level and only for closed occurrences beginning in fiscal year 2019–20. As a result, analyses involving individual claims, filed claims by year, or open claims could not be conducted for the City of Los Angeles. Similarly, because only occurrence-level data was available, backward projections for the City were limited to aggregate occurrence counts, total occurrence values, and average occurrence size based on the historical growth trajectory observed across the remainder of participating public entities statewide.

Where methodological limitations prevented integration of the City of Los Angeles into broader statewide analyses, separate figures were produced for: (1) all participating public entities excluding the City of Los Angeles, and (2) the City of Los Angeles independently. This approach allowed for inclusion of the City's large liability exposures while maintaining consistency and comparability in analyses requiring claim-level or size-category detail.

SAM and Non-SAM Analyses

Several analyses examine trends both including and excluding sexual abuse and molestation (SAM) occurrences. These comparisons are intended to assess the extent to which recent liability trends reflect broader changes in public entity liability exposure versus growth concentrated within a single category of claims.

Part I. Analysis of Claims Data

To better understand how public entity liability has changed over time, this section reviews long-term trends in occurrence and claim frequency, claim severity, and resolution timelines. While the total number of occurrences remained fairly steady for much of the past decade, recent years show notable changes in both the number and types of occurrences being filed. In particular, an increase in larger, more costly claims, combined with longer resolution timelines, has led to greater and more sustained financial exposure for public entities. As a result, analyses based on year of closure reflect not only the severity of claims ultimately resolved in a given fiscal year but also the growing tendency for high-value claims to remain active over longer periods.

This section presents complementary analyses based on both the year an occurrence or claim was filed and the year it was closed. Filing-year analyses are used primarily to examine trends in occurrence and claim **frequency**, while closing-year analyses are used primarily to evaluate **realized financial exposure** and **claim severity**. Because complex, high-value claims often require multiple years to resolve, closing-year dollar totals may reflect a combination of recently filed claims and older claims reaching resolution. This timing dynamic is itself an important component of liability exposure, as extended resolution periods can increase uncertainty and prolong the period over which public entities remain financially exposed. Accordingly, the report considers trends in filing frequency, claim severity, and resolution timelines together, rather than interpreting closing-year totals in isolation.

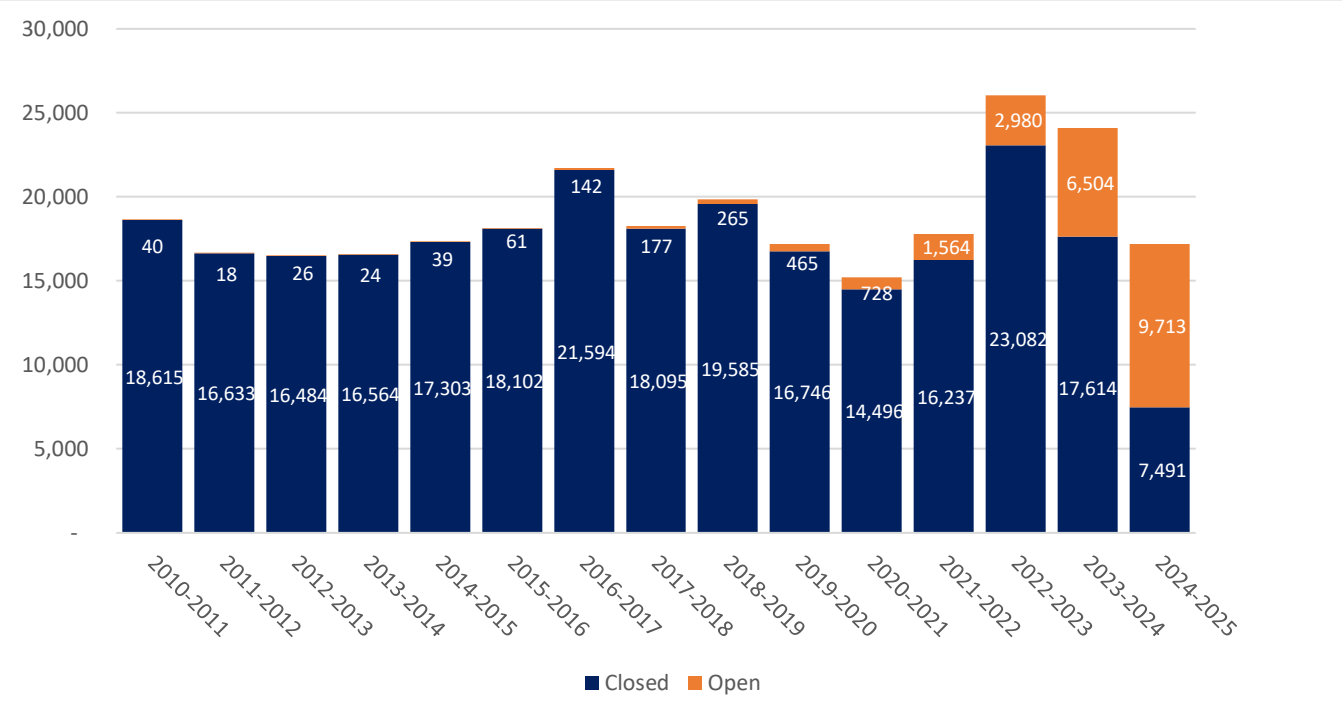
A. Frequency of Occurrences and Claims Filed

Occurrences:

- **The number of occurrences filed remained relatively stable between fiscal year 2010–11 and fiscal year 2019–20**, generally ranging from around 17,000 to 20,000 occurrences annually, excluding the City of Los Angeles.
- **Occurrence filings declined during fiscal year 2020–21**, likely reflecting reduced activity and disruptions associated with the COVID-19 pandemic.
- **Filing activity** rebounded sharply beginning in fiscal year 2021–22, with total occurrences exceeding 26,000 in fiscal year 2022-23 (approximately 40% above fiscal year 2019–20 levels). Elevated occurrence levels continued in fiscal year 2023–24, with more than 24,000 occurrences filed.

- **More recent filing years show a substantially larger share of occurrences that remain open**. While this is partly expected because newer occurrences have had less time to reach resolution, the longer resolution timelines associated with many large and complex claims may also contribute to higher open shares in recent years.

Figure 1a. Number of Occurrences Open and Fully Closed by Filing Year, Excluding City of Los Angeles

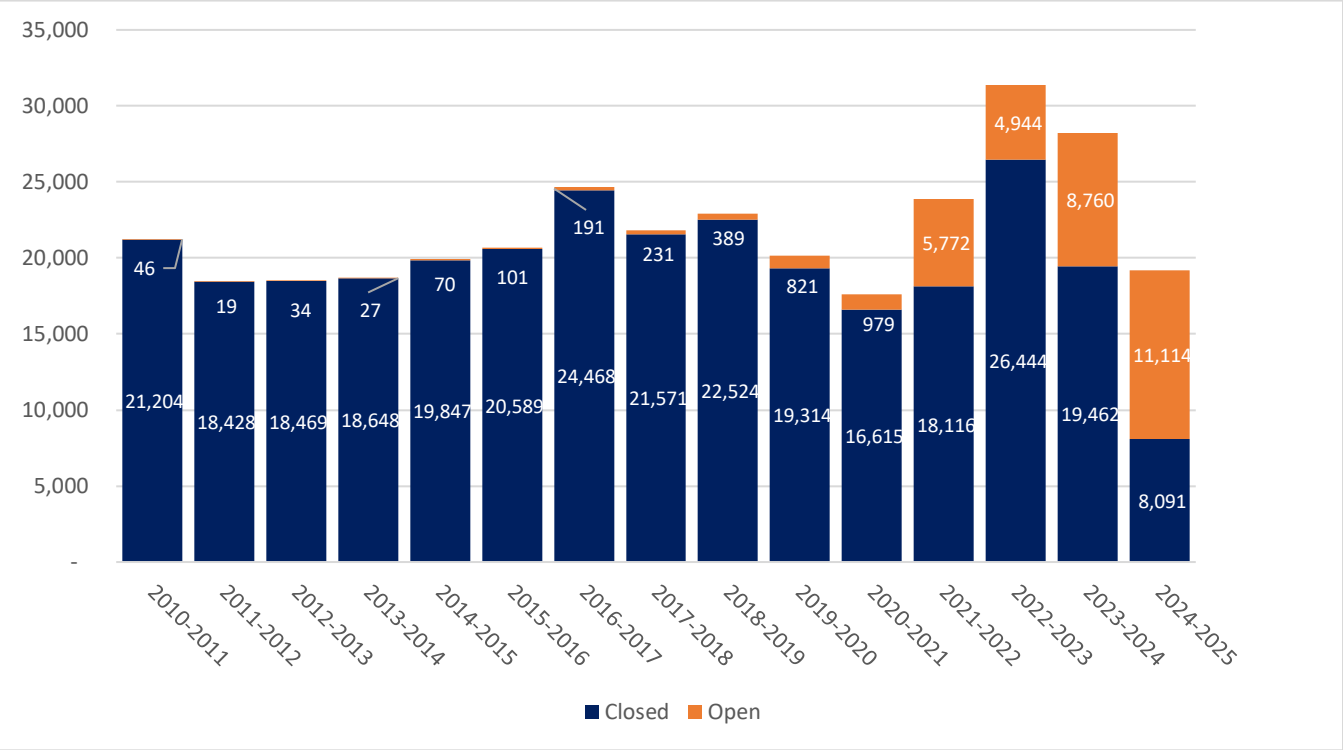


Source: Polco claims data. Analysis by Beacon Economics.

Claims:

- **Similarly, the number of claims filed remained relatively stable** between fiscal year 2010–11 and fiscal year 2019–20, with a dip observed in fiscal year 2020-21.
- **The dip was followed by a rebound that exceeded pre-pandemic levels of claims**, with more than 31,000 claims filed in fiscal year 2022–23 and over 27,000 filed in fiscal year 2023–24.

Figure 1b. Number of Claims Open and Closed by Filing Year, Excluding City of Los Angeles

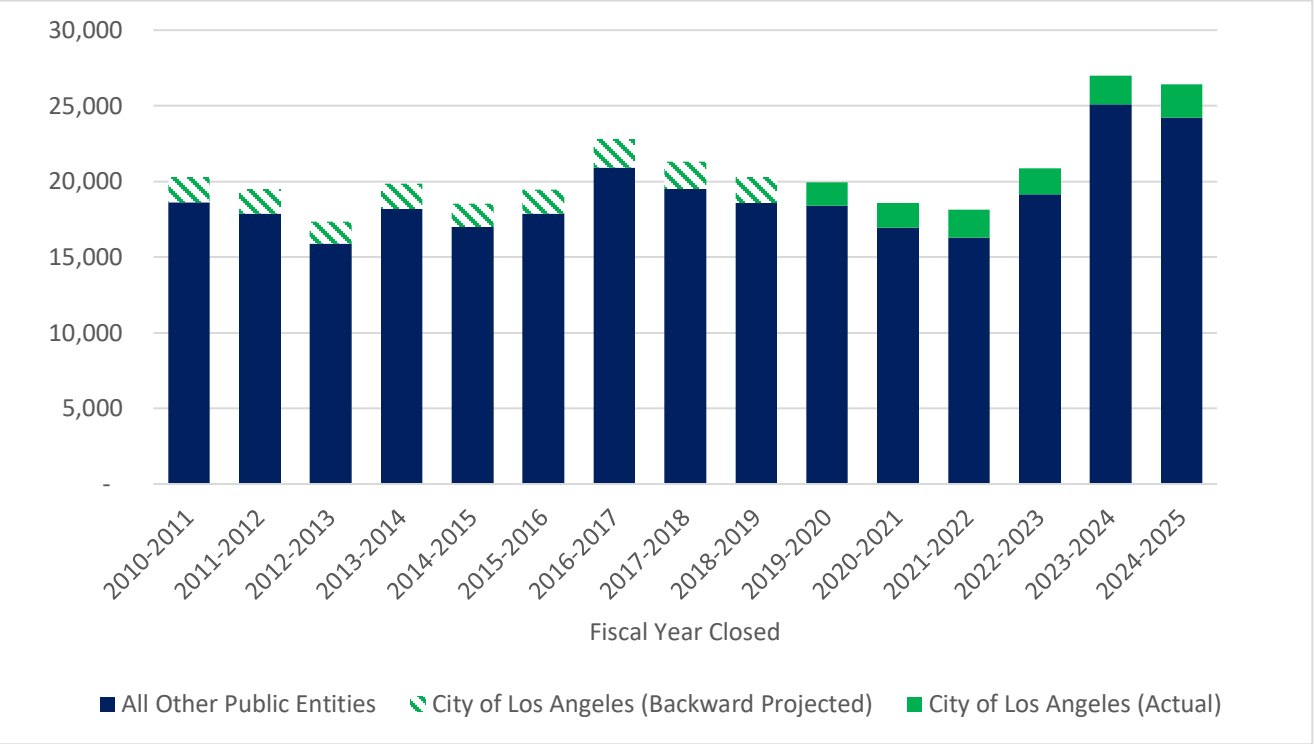


Source: Polco claims data. Analysis by Beacon Economics.

B. Frequency of Occurrences Closed

- **The number of occurrences closed remained relatively stable between fiscal years 2010–11 and 2019–20**, generally ranging from approximately 18,000 to 22,000 occurrences annually.
- **Occurrence closures increased substantially in recent years**, reaching approximately 27,000 closed occurrences in fiscal year 2023–24 and remaining elevated in fiscal year 2024–25.
- **The increase in closure activity broadly mirrors the increase in occurrence filings observed after fiscal year 2020–21**, although closures reflect both recent filing activity and the resolution of occurrences filed in prior years.
- Because these figures are organized by year of closure rather than year of filing, **trends should be interpreted alongside filing-year analyses**, particularly given the longer resolution timelines associated with some occurrence types.

Figure 2. Number of Occurrences Closed by Year of Closure



Source: Polco claims data. Analysis by Beacon Economics.

C. Frequency of SAM Occurrences Filed and Closed

- **Educational entities account for the majority of total SAM occurrences**, consistently representing approximately 60–80% of these types of occurrences, making schools and school districts the primary source of exposure.[1]
- **Excluding the City of Los Angeles, the number of SAM occurrence filings remained relatively stable between fiscal year 2010-11 and fiscal year 2019-20,** generally ranging from approximately 100 to 175 occurrences annually.

[1] This finding is based on analysis conducted by Polco and is reported here directly; it was not independently replicated or reanalyzed by Beacon Economics.

- **SAM occurrence filings increased in more recent years**, reaching nearly 200 occurrences in fiscal year 2021-22 and peaking at approximately 340 occurrences in fiscal year 2022-23.[2] Average annual SAM occurrence filings increased from approximately 134 occurrences per year between fiscal years 2010-11 and 2019-20 to approximately 271 occurrences per year between fiscal years 2021-22 and 2023-24.
- **Although SAM occurrences have increased in recent years, they continue to represent a relatively small share of total occurrence filings**. SAM occurrences accounted for less than 1.5% of all filed occurrences throughout the study period.
- **SAM occurrence closures also increased substantially after fiscal year 2020–21**. However, because SAM claims often take several years to resolve, trends in occurrence closures may differ from trends in occurrence filings. Increases in closures can reflect both recent filing activity and the resolution of older claims.
- **The post-2020 increase aligns with California's AB 218 (effective January 1, 2020), which extended the statute of limitations** for childhood sexual assault claims to age 40 and opened a three-year lookback window (2020-2022), allowing previously time-barred claims to be filed.[3] AB 452 further eliminated statutes of limitations for new claims filed after January 1, 2024.[4] The #MeToo movement also contributed to increased reporting and awareness of institutional abuse.[5]

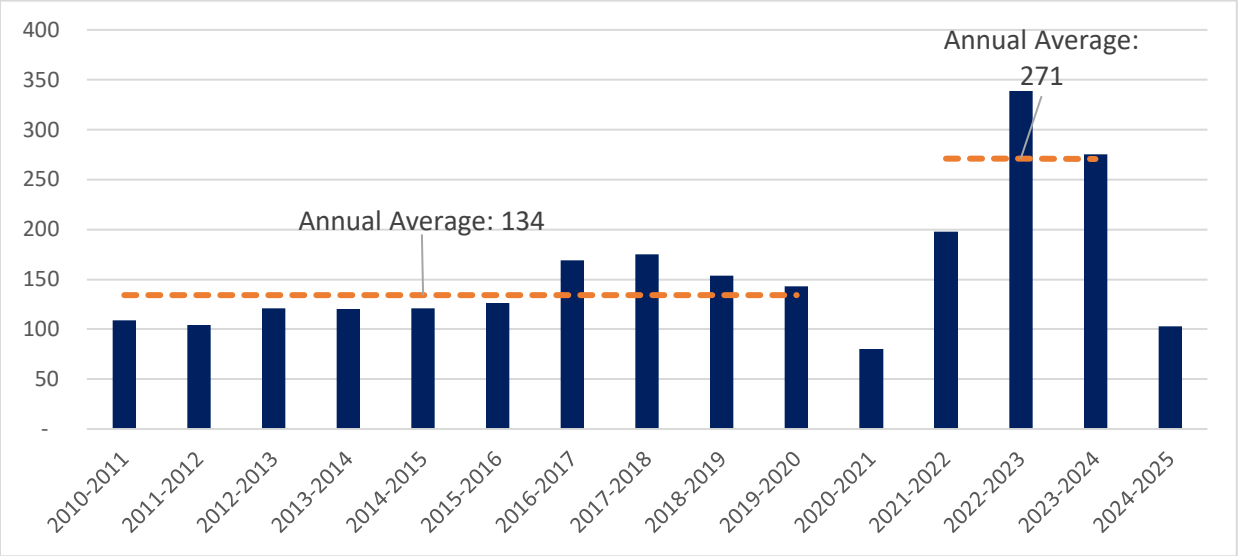
2 The modest decline observed after the peak may partially reflect reporting lags, as claims are often filed up to two years after the underlying incident. As discussed in the Methodology section, fiscal year 2024–25 data may therefore be incomplete and not fully representative of all claims incurred during that fiscal year.

[3] California Assembly Bill 218 (2019), amending Code of Civil Procedure § 340.1 and Government Code § 905.

[4] California Assembly Bill 452 (2023); "California Statute of Limitations for Sexual Assault," Cutter Law P.C.

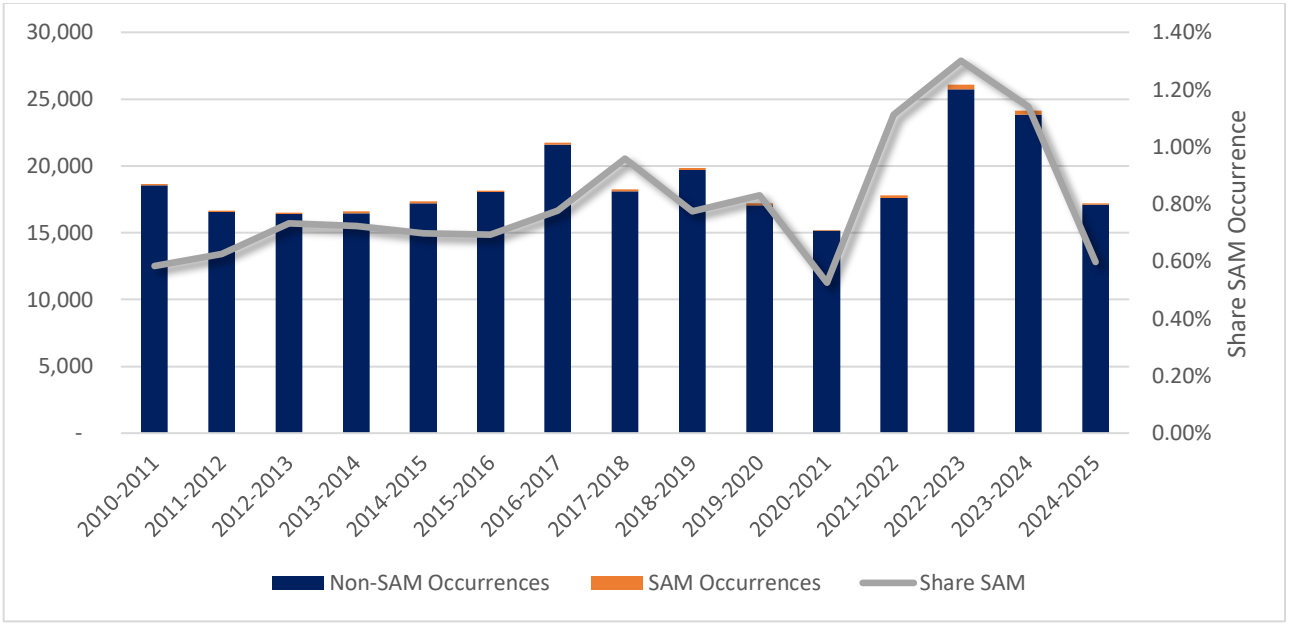
[5] California school districts are weighed down by new costs of old sexual assaults," EdSource, February 2025.

Figure 3. Number of SAM Occurrences Filed by Filing Year, Excluding City of Los Angeles[6]



Source: Polco claims data. Analysis by Beacon Economics.

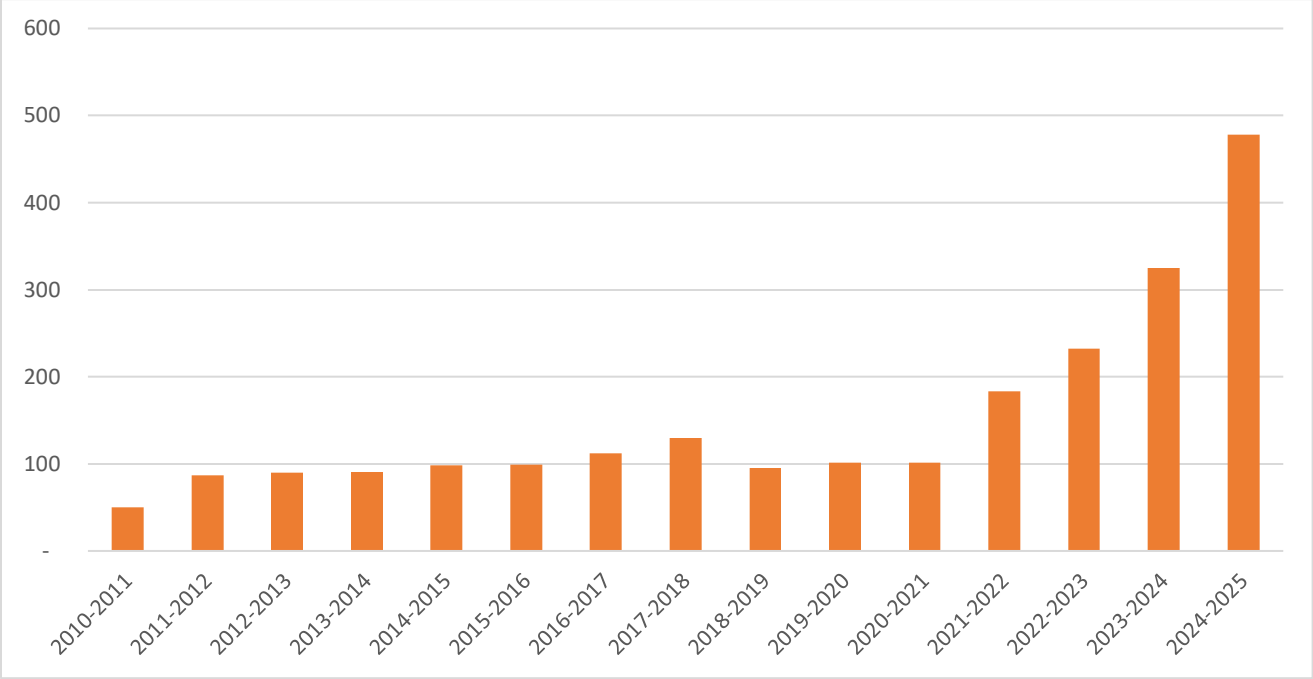
Figure 4. SAM Occurrences as a Share of Total Occurrence Filings, by Filing Year, Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

[6] Fiscal years 2020–21 and 2024–25 are excluded from the average calculations. Fiscal year 2020–21 experienced an unusually low number of filings, likely reflecting disruptions associated with the COVID-19 pandemic. Fiscal year 2024–25 may not yet reflect the full number of occurrences ultimately attributable to that filing year due to reporting lags. Although fiscal year 2023–24 may also be affected by reporting delays, it is included in the average calculations because the available data is considered sufficiently mature for comparative purposes.

Figure 5. SAM Occurrences Closed by Year of Closure, Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

D. Severity of Occurrences and Claims Closed (Dollar Value)

- **The total dollar value of closed occurrences increased steadily between fiscal year 2010–11 and fiscal year 2018–19**, despite relatively stable occurrence frequencies over the same period. Excluding the City of Los Angeles, the total dollar value of closed claims rose from approximately $244 million in fiscal year 2010–11 to roughly $442 million in fiscal year 2018–19. After incorporating backward projections for the City of Los Angeles occurrence-level data, total closed occurrence values exceeded $550 million by fiscal year 2017–18 and fiscal year 2018–19. This indicates that occurrence severity, rather than occurrence frequency alone, has increasingly driven public entity liability exposure over time.
- **More recently, growth in the dollar value of closed occurrences has accelerated substantially**. Total occurrence values exceeded $770 million in fiscal year 2021–22, surpassed $1.0 billion in fiscal year 2023–24, and reached approximately $1.27 billion in fiscal year 2024–25. Annual growth rates reached approximately 53% between fiscal year 2020–21 and fiscal year 2021–22 and 44% between fiscal year 2022–23 and fiscal year 2023–24, far exceeding the roughly 5%–15% annual growth rates that

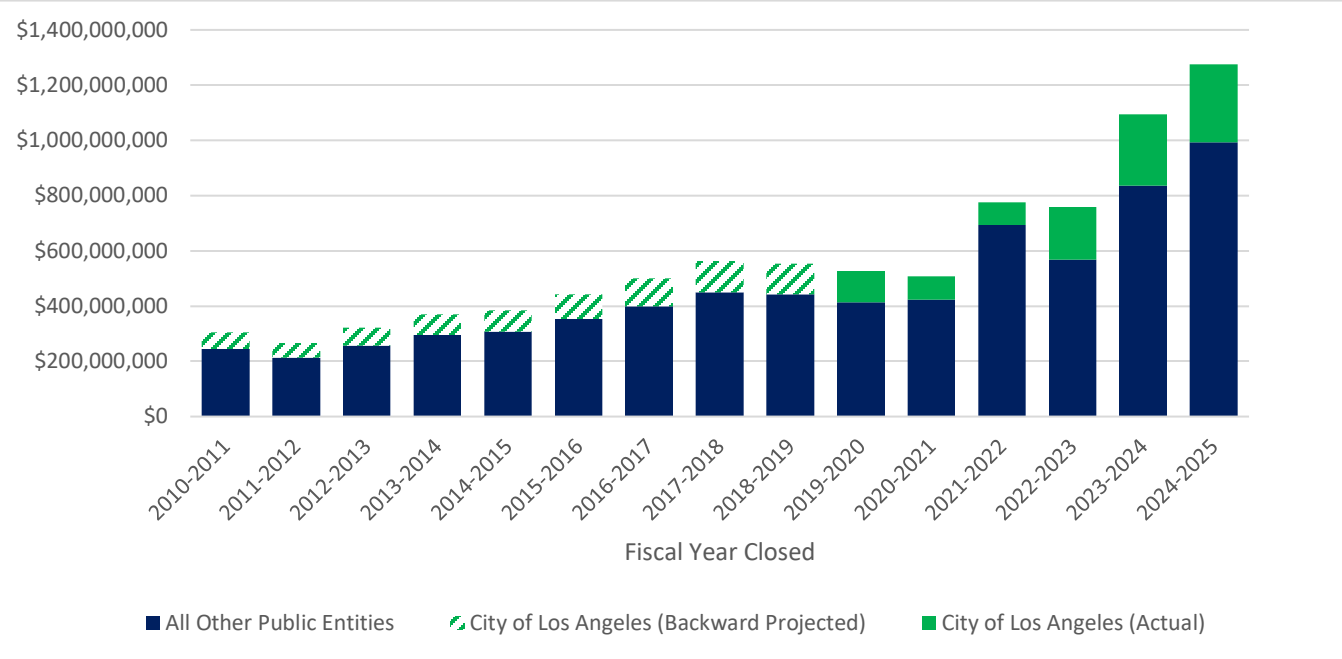
characterized much of the pre-pandemic period. While the compound annual growth rate in closed occurrence values over the full study period was approximately 5.6%, annual growth reached 52.8% between fiscal year 2020–21 and fiscal year 2021–22 and 44.2% between fiscal year 2022–23 and fiscal year 2023–24, far exceeding historical trends.

- Claims follow a similar trajectory to occurrences. Excluding the City of Los Angeles, the total dollar value of closed claims rose steadily between fiscal year 2010–11 and fiscal year 2018–19 and then increased sharply from fiscal year 2021–22 onwards. Closed claim values exceeded $1.0 billion in fiscal year 2024–25, more than quadrupling relative to fiscal year 2010–11 levels. Although the long-run compound annual growth rate was also approximately 5.6%, annual growth rates reached 67% between fiscal year 2020–21 and fiscal year 2021–22 and 45% between fiscal year 2022–23 and fiscal year 2023–24.
- The increase in total dollar exposure has been driven in large part by growth in the number of high-severity occurrences, while lower-value occurrence counts have remained comparatively stable over time. Excluding the City of Los Angeles, occurrences below $250,000 fluctuated modestly but did not exhibit the same sustained upward trend observed among larger occurrences. By contrast, the number of closed occurrences with values between $1 million and $5 million increased from fewer than 40 in fiscal year 2010–11 to approximately 140 in fiscal year 2024–25. Occurrences in the $5 million to $10 million range rose from only a handful annually in the early 2010s to more than 20 in fiscal year 2024–25. Nuclear occurrences also became increasingly common, rising from zero to two annually in the early years of the study period to approximately 15 in fiscal year 2024–25. “Thermonuclear” occurrences ($25 million-plus) were virtually nonexistent before fiscal year 2021–22 but increased to multiple occurrences annually in recent years.
- Although high-severity occurrences account for a very small share of total occurrences, they represent a disproportionate and growing share of total dollar exposure. Excluding the City of Los Angeles, occurrences below $250,000 account for the vast majority of closed occurrences in every fiscal year, while those exceeding $1 million typically represent less than 1% of the total. However, the share of total dollars attributable to severe, nuclear, and thermonuclear occurrences has increased substantially. By fiscal year 2024–25, occurrences above $1 million comprised the majority of total dollar exposure, with the largest and fastest-growing contributions stemming from occurrences above $5 million.
- The City of Los Angeles exhibits a similar pattern toward increasing occurrence severity, despite the shorter available time series. Between fiscal year 2019–20 and fiscal year 2024–25, the number of closed occurrences between $1 million and $5 million increased from fewer than 20 to approximately 50

annually. Closed occurrences above $5 million—including severe, nuclear, and thermonuclear occurrences—also rose from fewer than five annually in fiscal year 2019–20 to 10 in fiscal year 2024–25. While lower-value occurrences continue to account for the majority of total occurrence counts in the City, higher-severity occurrences have become more common in recent years, consistent with broader statewide trends.

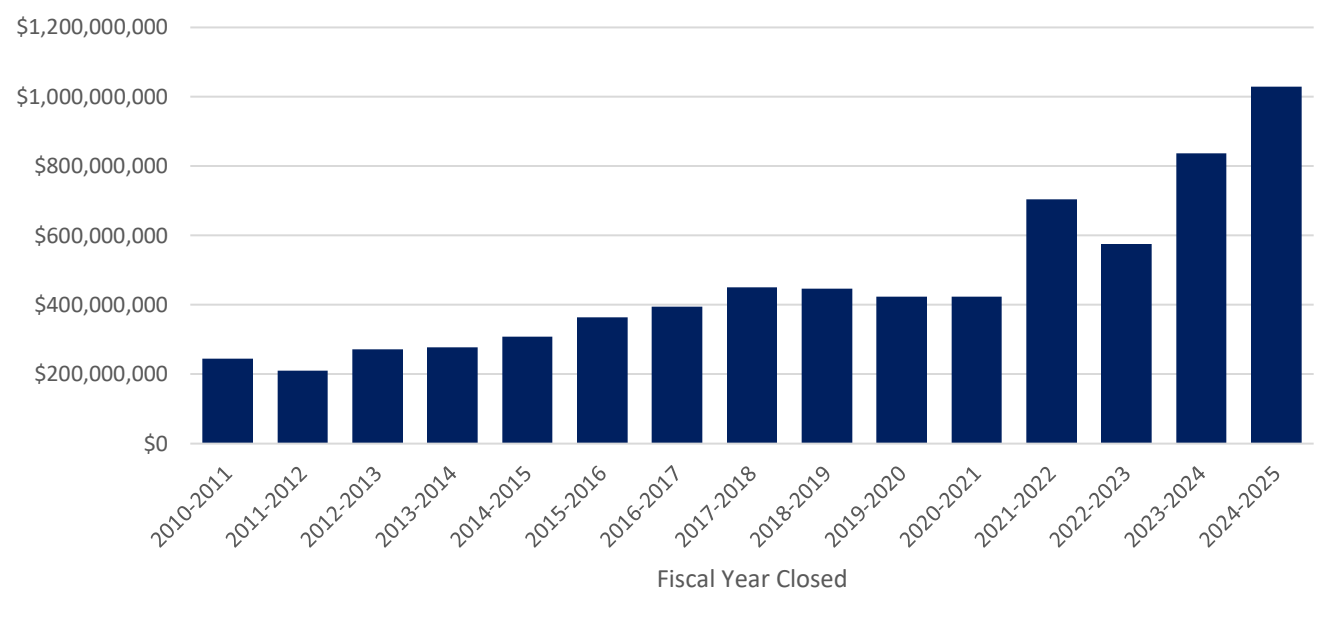
- This divergence between occurrence frequency and dollar exposure is especially important because overall occurrence counts have remained relatively stable over much of the study period, while severity has increased materially. In other words, public entities are not simply facing more occurrences; they are increasingly facing larger and more expensive occurrences. This trend is visible both in the indexed occurrence-by-size figures and in the growing dollar share attributable to severe, nuclear, and thermonuclear occurrences in recent fiscal years.
- To assess whether the increase in occurrence values can be explained by inflation alone, a counterfactual series was constructed by applying annual inflation growth rates to fiscal year 2010–11 occurrence values. Under this scenario, total occurrence values would have increased from approximately $306 million to roughly $418 million by fiscal year 2024–25. Actual occurrence values, however, reached nearly $1.0 billion. The widening gap between the actual and counterfactual series suggests that inflation accounts for only a portion of the observed growth in occurrence values, with other factors contributing significantly to rising liability exposure.

Figure 6a. Dollar Value of Occurrences Closed by Year of Closure



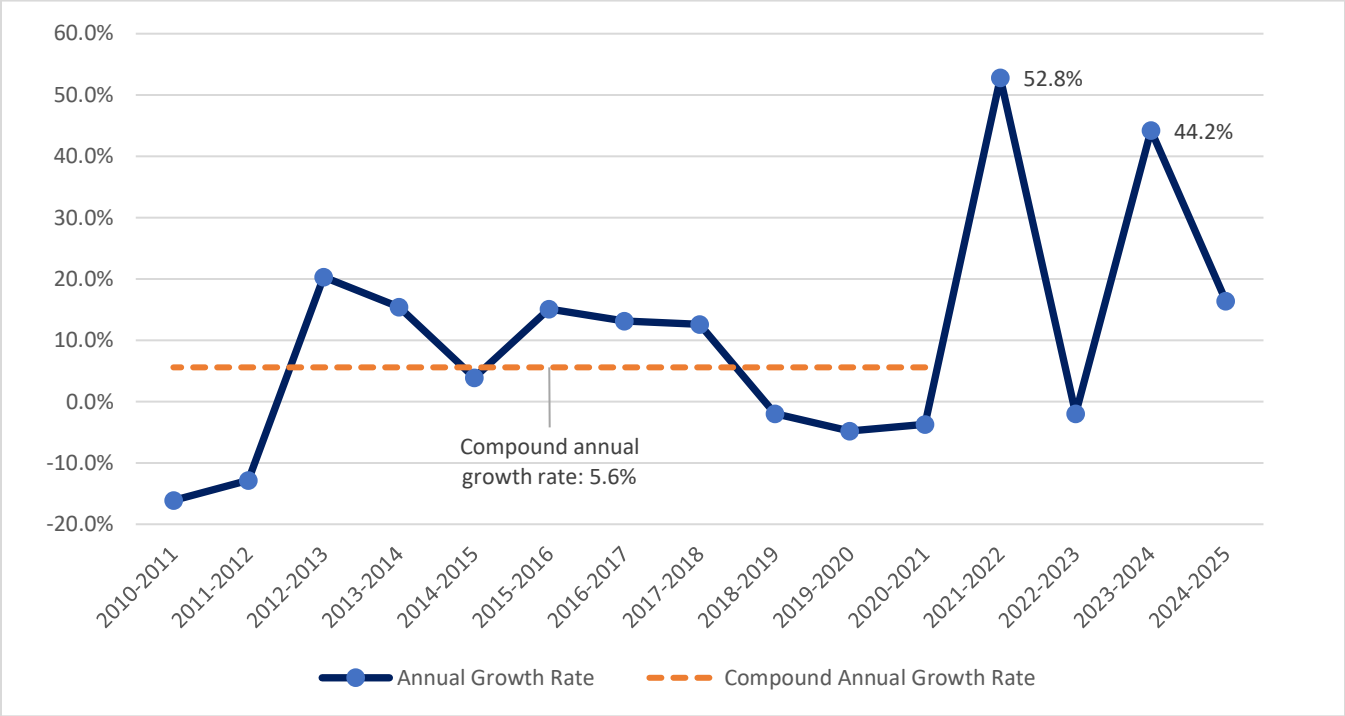
Source: Polco claims data. Analysis by Beacon Economics.

Figure 6b. Dollar Value of Claims Closed by Year of Closure, Excluding City of Los Angeles



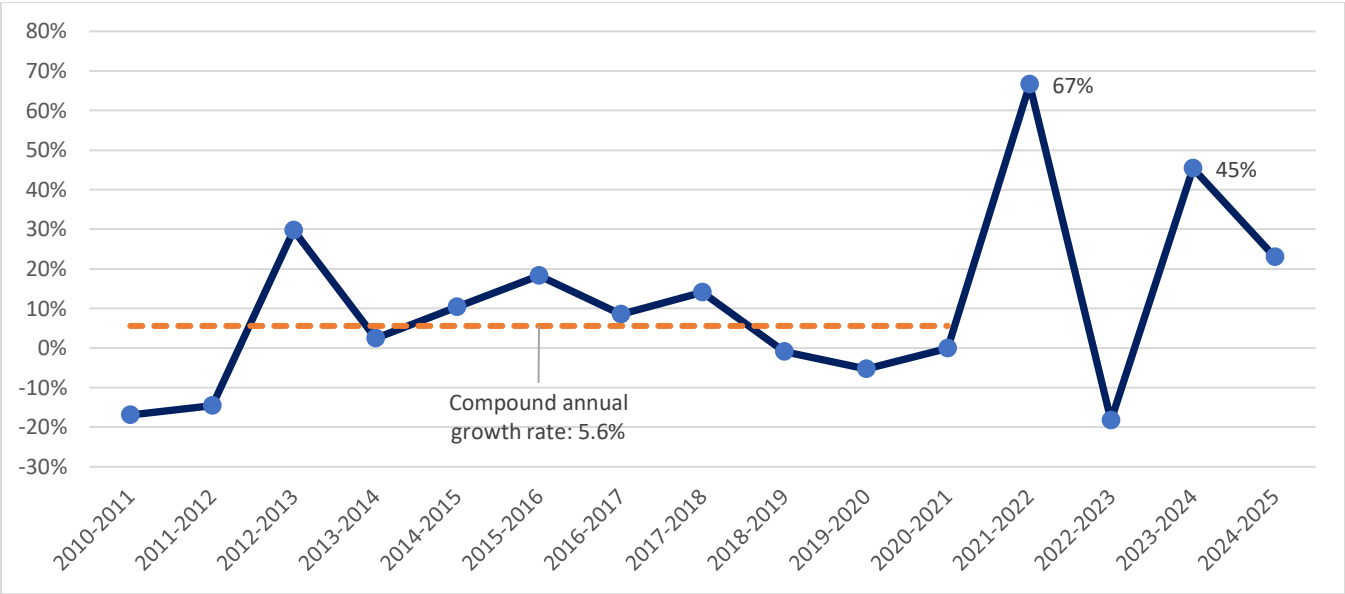
Source: Polco claims data. Analysis by Beacon Economics.

Figure 7a. Growth Rate in Dollar Value of Occurrences Closed by Year of Closure



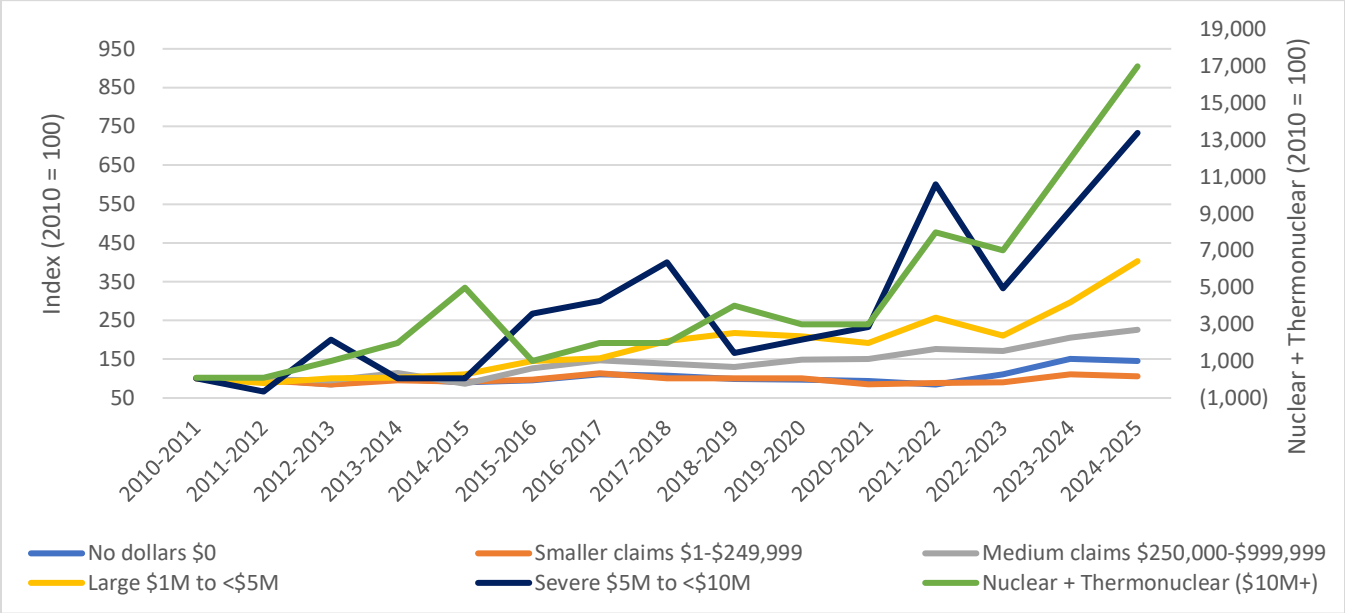
Source: Polco claims data. Analysis by Beacon Economics.

Figure 7b. Growth Rate in Dollar Value of Claims Closed by Year of Closure, Excluding City of Los Angeles



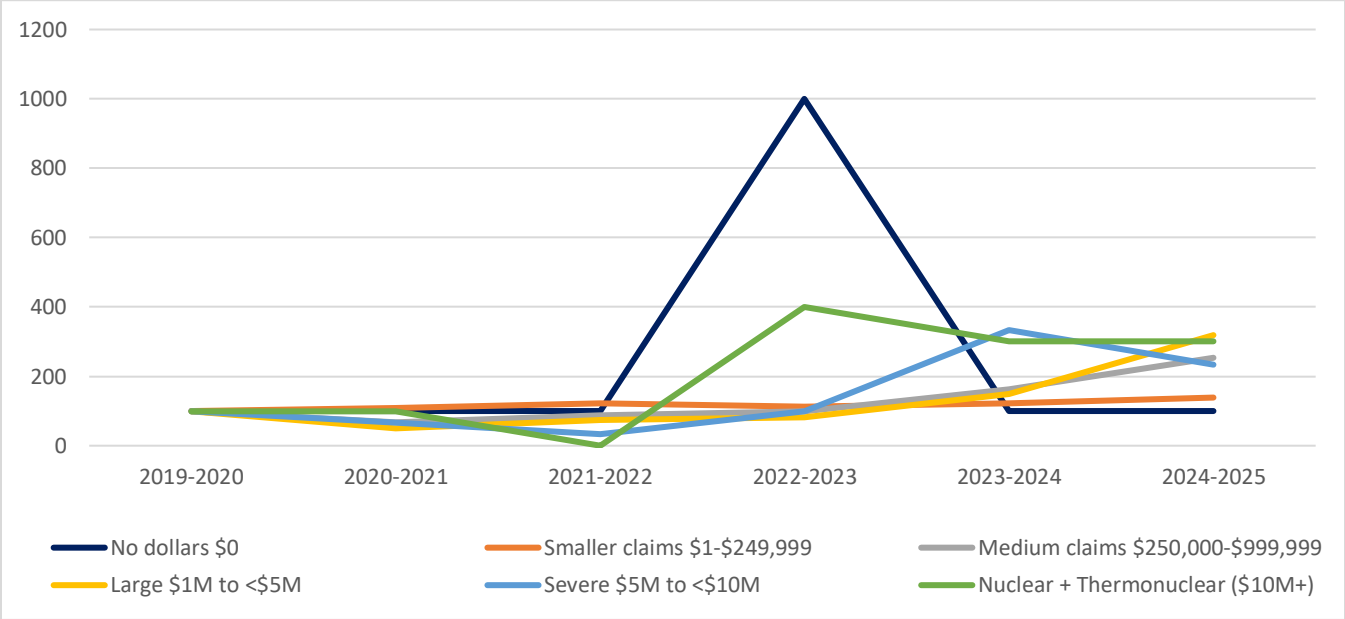
Source: Polco claims data. Analysis by Beacon Economics.

Figure 8a. Indexed Number of Occurrences Closed by Size[7] and Year of Closure, Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

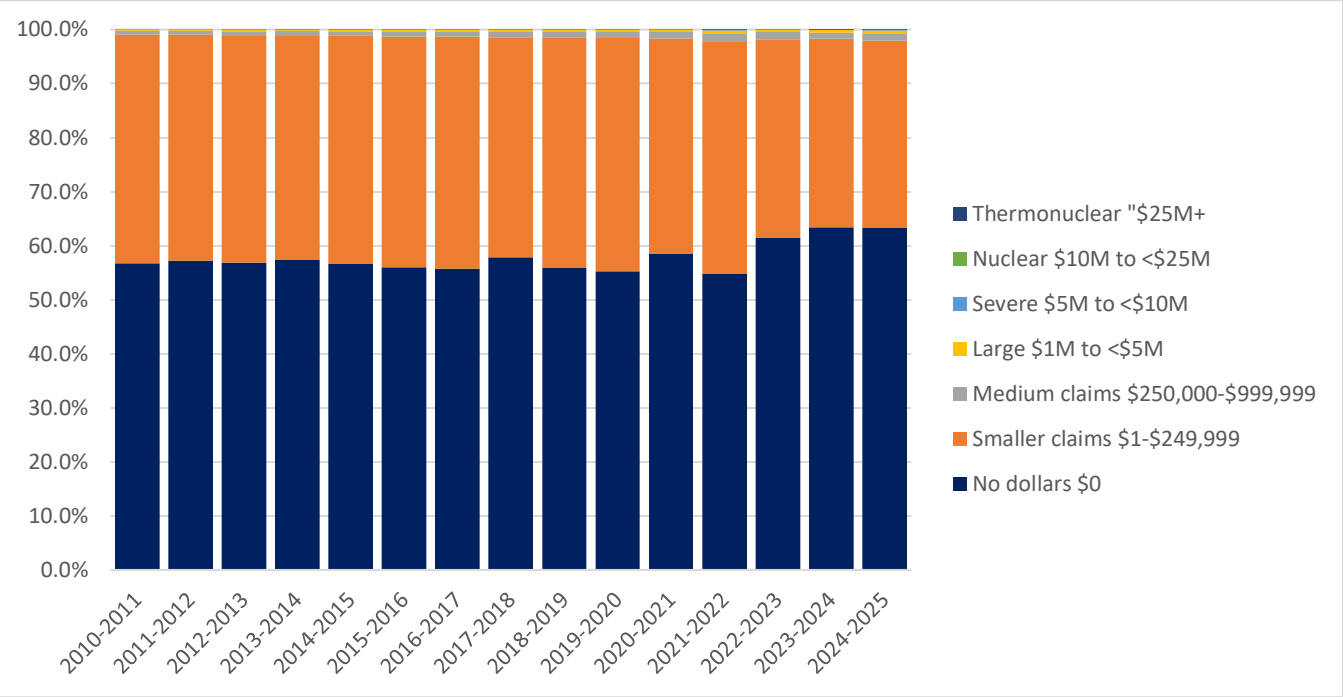
Figure 8b. Indexed Number of Occurrences Closed by Size[7] and Year of Closure, City of Los Angeles Only



Source: Polco claims data. Analysis by Beacon Economics.

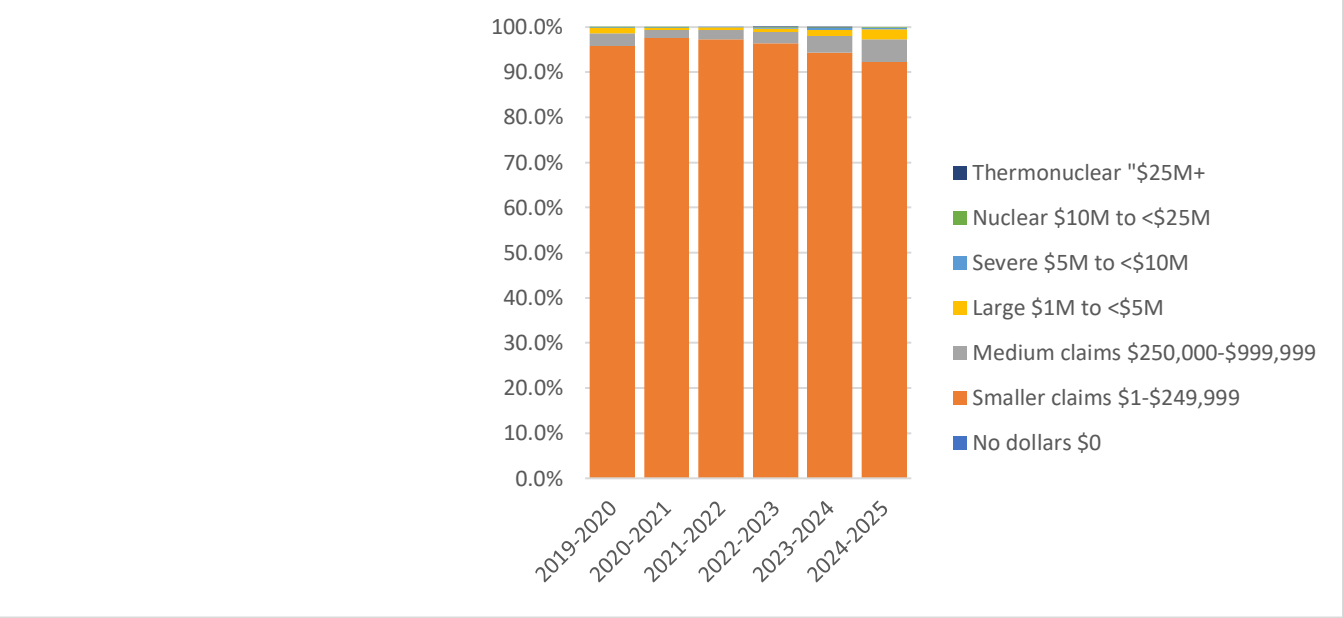
[7] "No dollars" does not indicate that no costs were incurred. Such claims still require investigation, staff time, and administrative or legal resources, even if no payment was made to the plaintiff.

Figure 9a. Share of Occurrence Numbers Closed by Size[7] by Year of Closure, Excluding City of Los Angeles



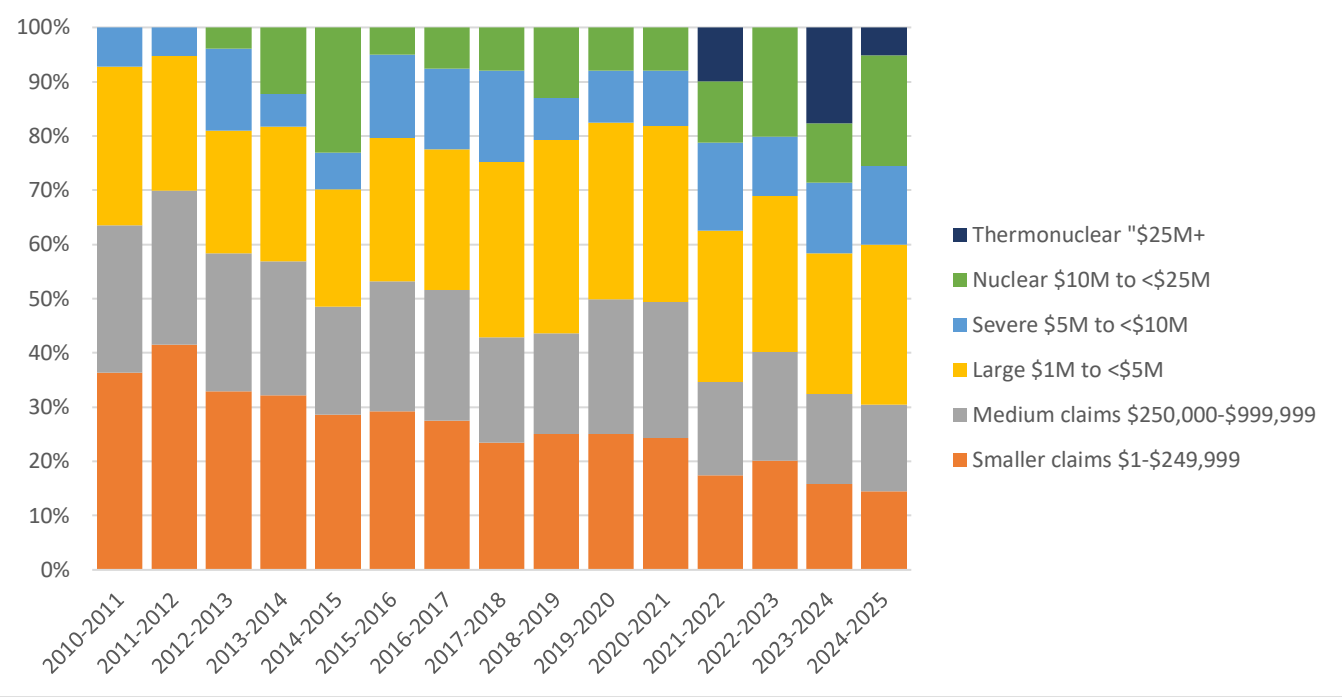
Source: Polco claims data. Analysis by Beacon Economics.

Figure 9b. Share of Occurrence Numbers Closed by Size[7] by Year of Closure, City of Los Angeles Only



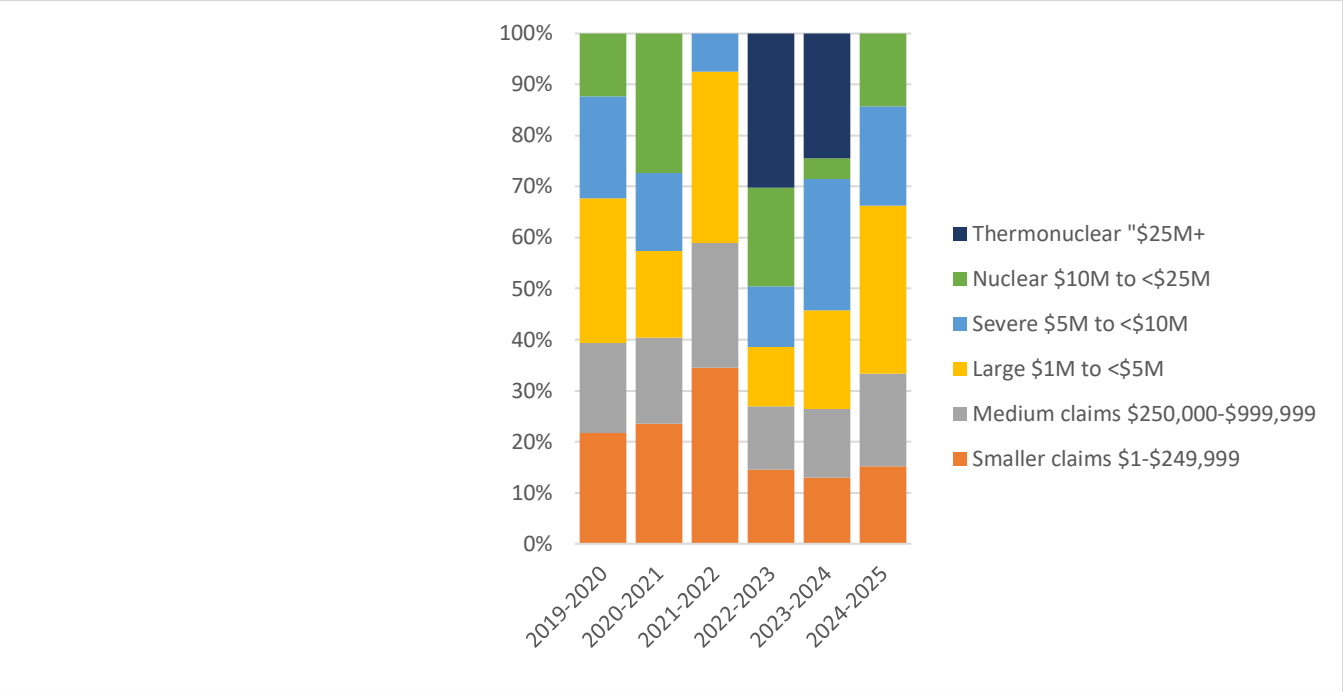
Source: Polco claims data. Analysis by Beacon Economics.

Figure 10a. Dollar Share of Occurrences Closed by Size (Excluding No Dollar Claims) and Year of Closure, Excluding City of Los Angeles



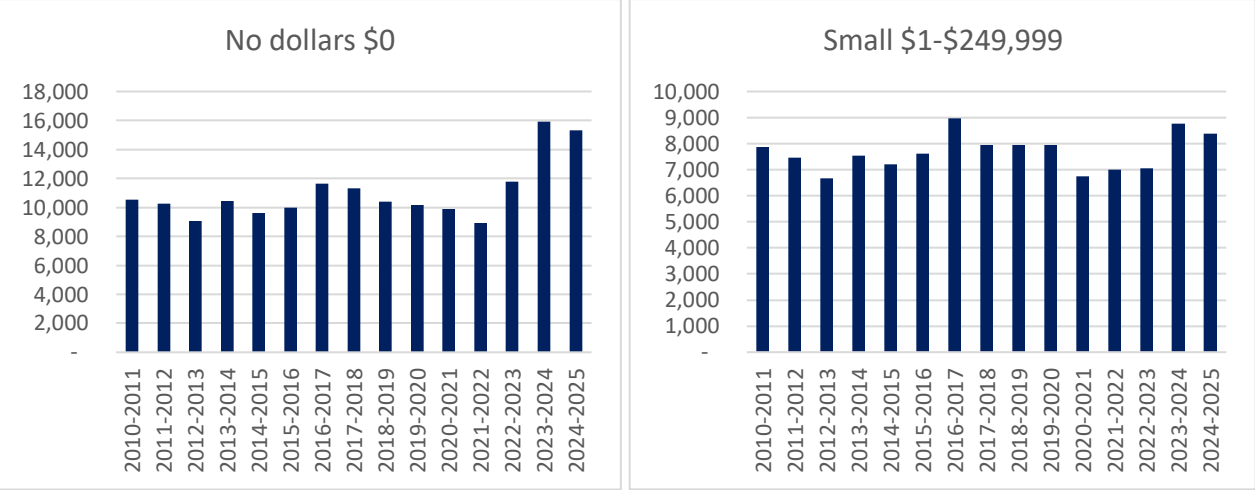
Source: Polco claims data. Analysis by Beacon Economics.

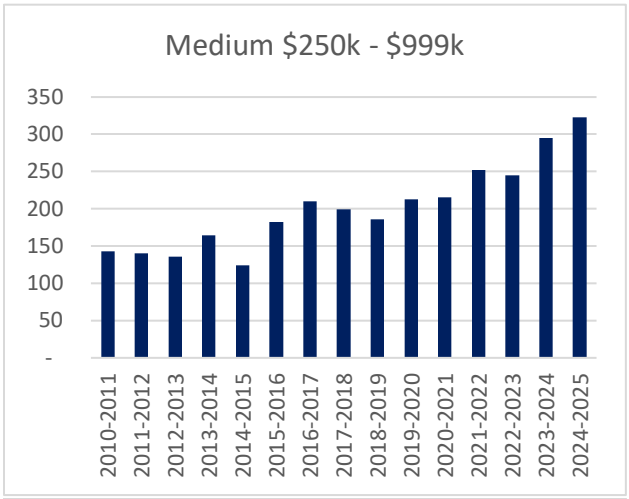
Figure 10b. Dollar Share of Occurrences Closed by Size (Excluding No Dollar Claims) and Year of Closure, City of Los Angeles Only

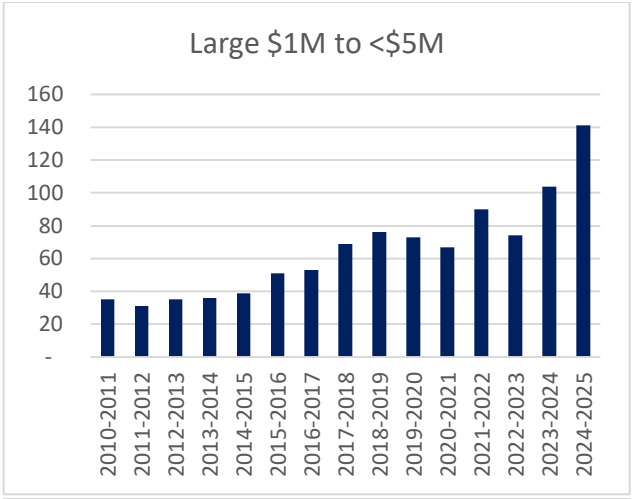


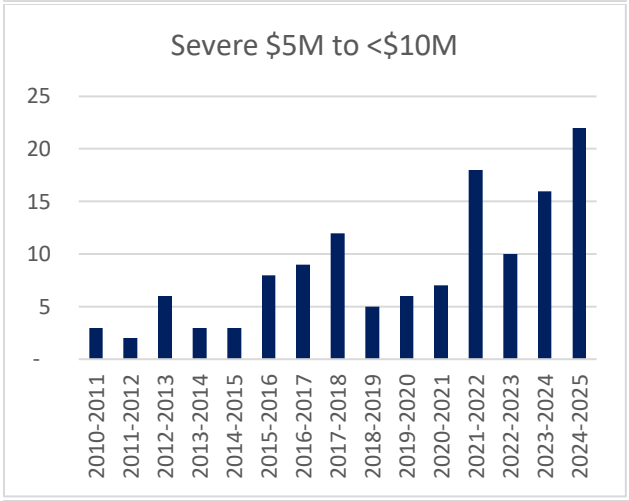
Source: Polco claims data. Analysis by Beacon Economics.

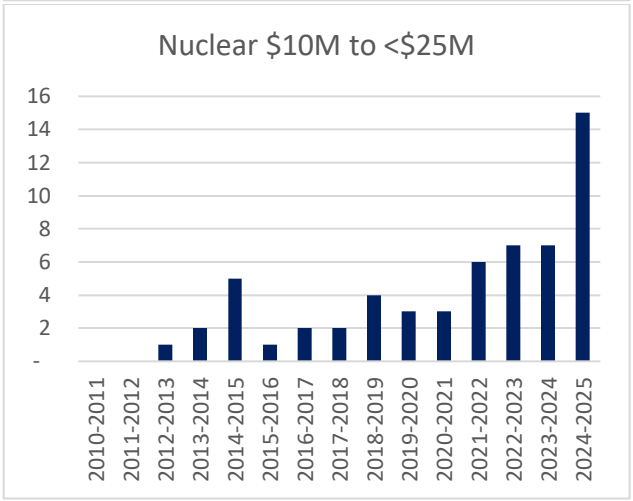
Figure 11a. Number of Occurrences Closed by Size[7] and Year of Closure, Excluding City of Los Angeles

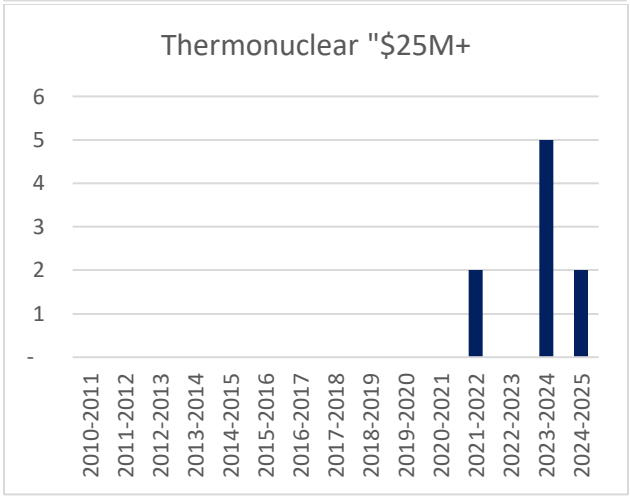






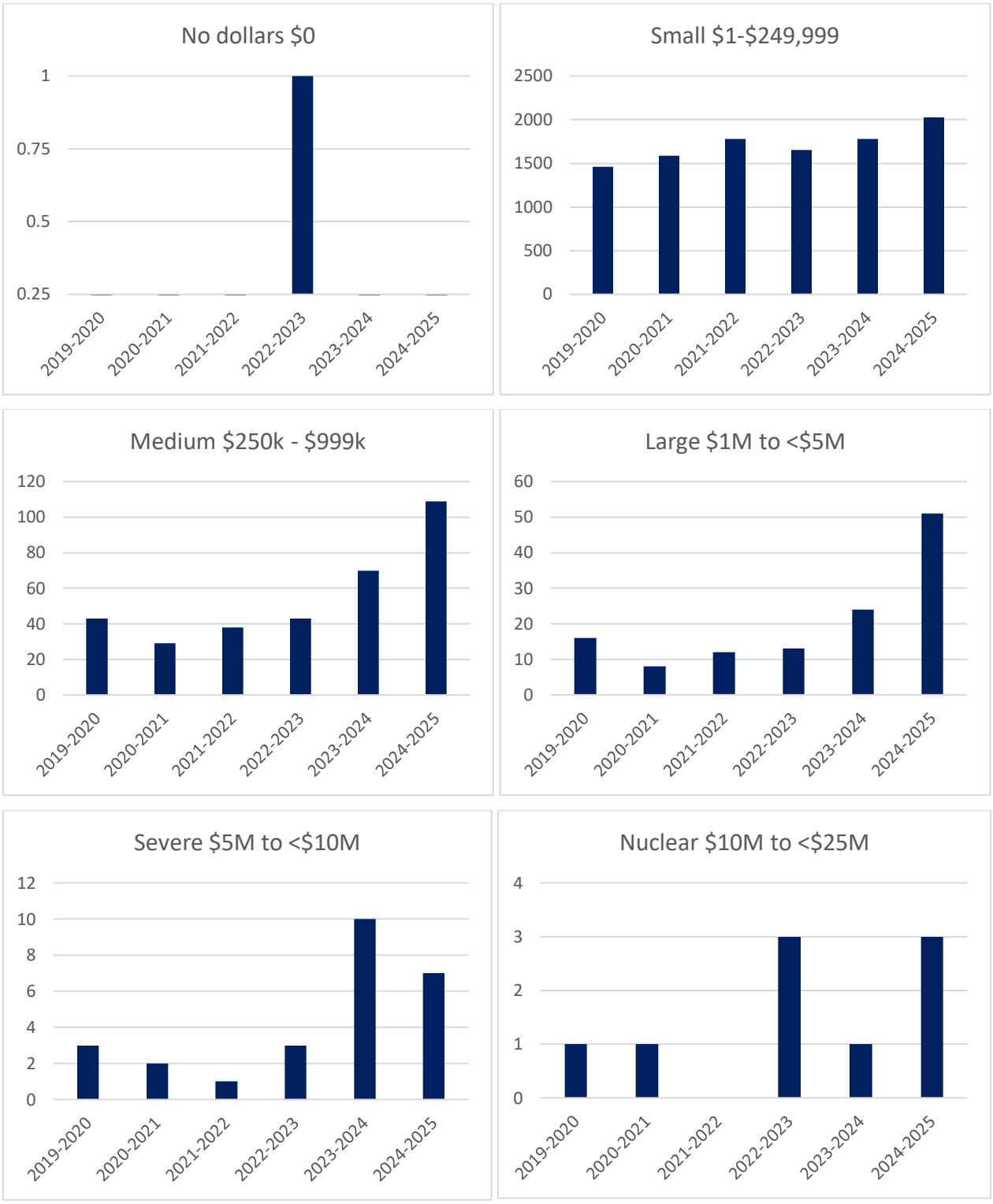


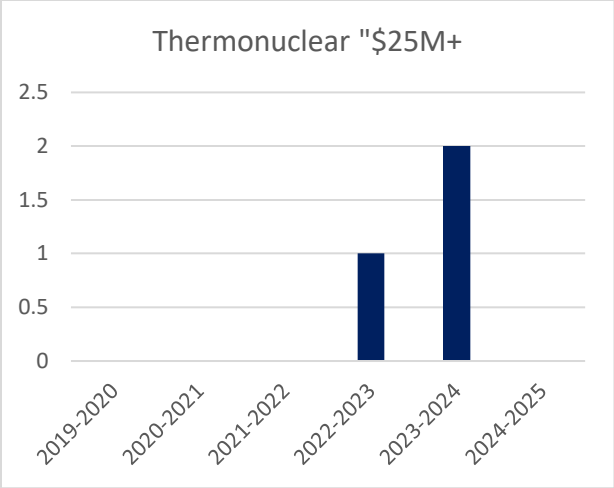




Source: Polco claims data. Analysis by Beacon Economics.

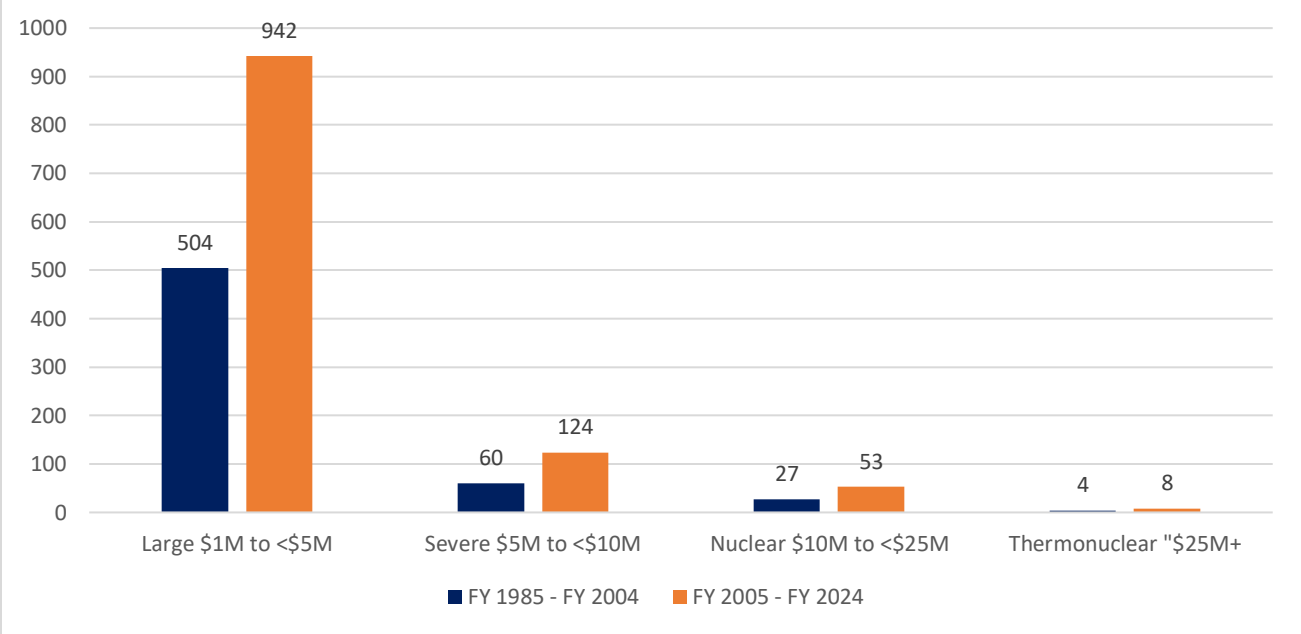
Figure 11b. Number of Occurrences Closed by Size[7] and Year of Closure, City of Los Angeles Only





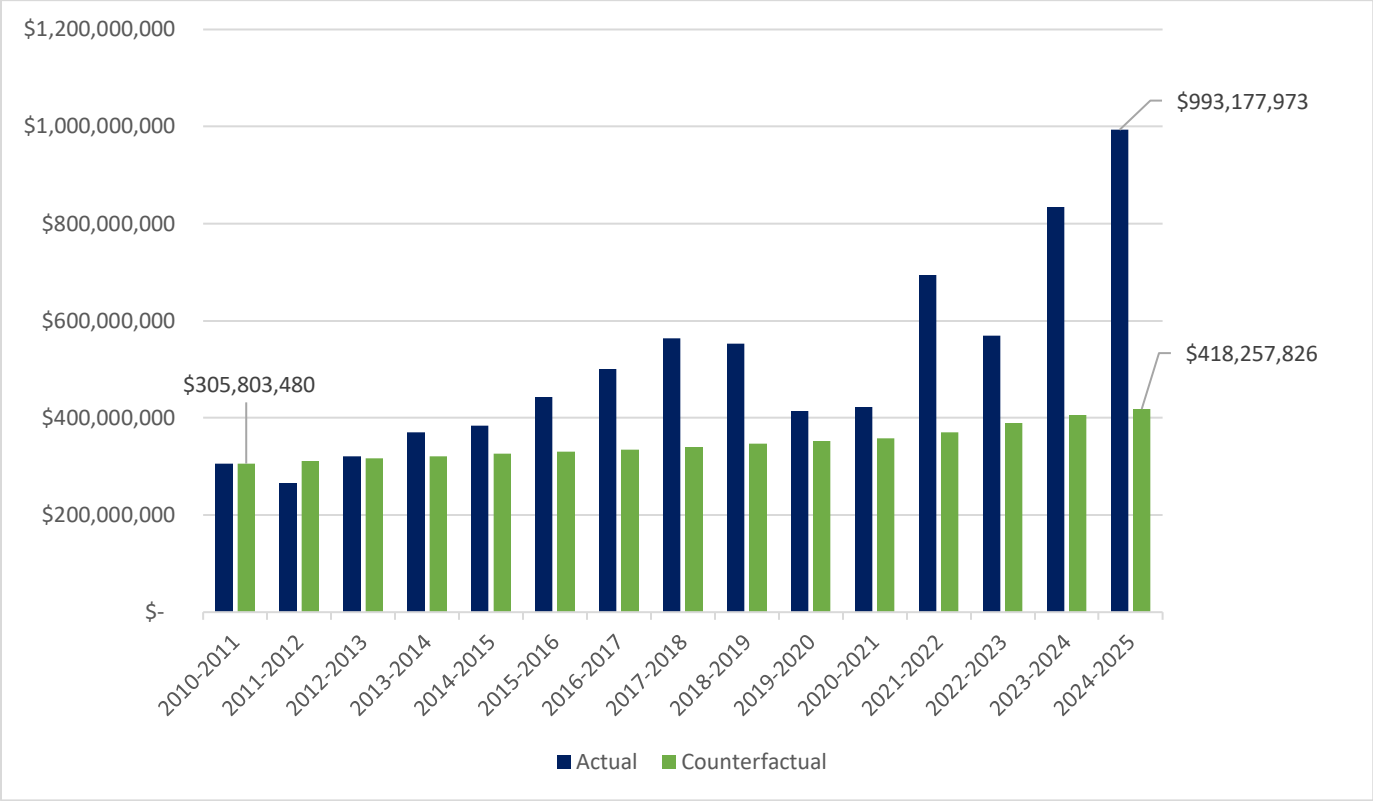
Source: Polco claims data. Analysis by Beacon Economics.

Figure 12. Number of $1M+ Occurrences Closed by Size by Filing Year, Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

Figure 13. Actual Dollar Value of Occurrence Closed Compared to Inflation-Adjusted Trend, Excluding City of Los Angeles



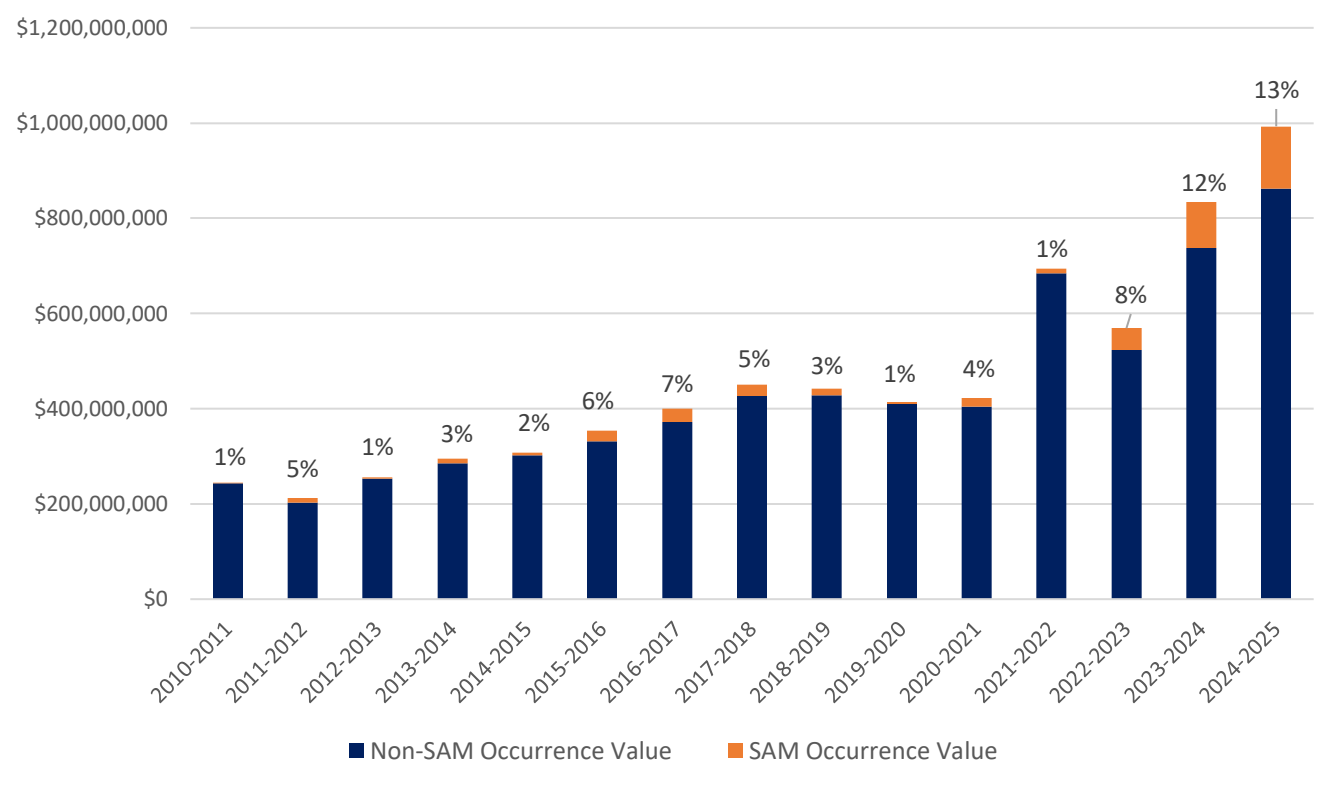
Source: Polco claims data, U.S. Bureau of Economic Analysis via FRED. Analysis by Beacon Economics.

E. Severity of SAM Occurrences Closed (Dollar Value)

- While SAM claims account for a relatively small share of total occurrence closures, their contribution to total occurrence value has increased in recent years.
- Excluding the City of Los Angeles, SAM occurrence values accounted for between approximately 0.5% and 13.2% of total closed occurrence value during the study period.
- For most fiscal years prior to 2022-23, SAM claims generally represented less than 6% of total closed occurrence value. More recently, however, SAM shares increased to approximately 7.9% in fiscal year 2022-23, 11.7% in fiscal year 2023-24, and 13.2% in fiscal year 2024-25.
- The increase in SAM occurrence values is consistent with the expansion of childhood sexual abuse litigation following AB 218 and AB 452, as well as the resolution of larger and more complex SAM claims.

- Despite this recent growth, the majority of total occurrence value continues to be attributable to non-SAM claims. Even in fiscal year 2024-25, non-SAM occurrences accounted for nearly 87% of total closed occurrence value.
- As discussed in the following section, broader increases in occurrence frequency and occurrence severity remain evident even after SAM claims are removed from the analysis, indicating that recent growth in public entity liability exposure cannot be attributed solely to SAM litigation.

Figure 14. Dollar Value of SAM and Non-SAM Occurrences Closed by Year of Closure, Excluding City of Los Angeles



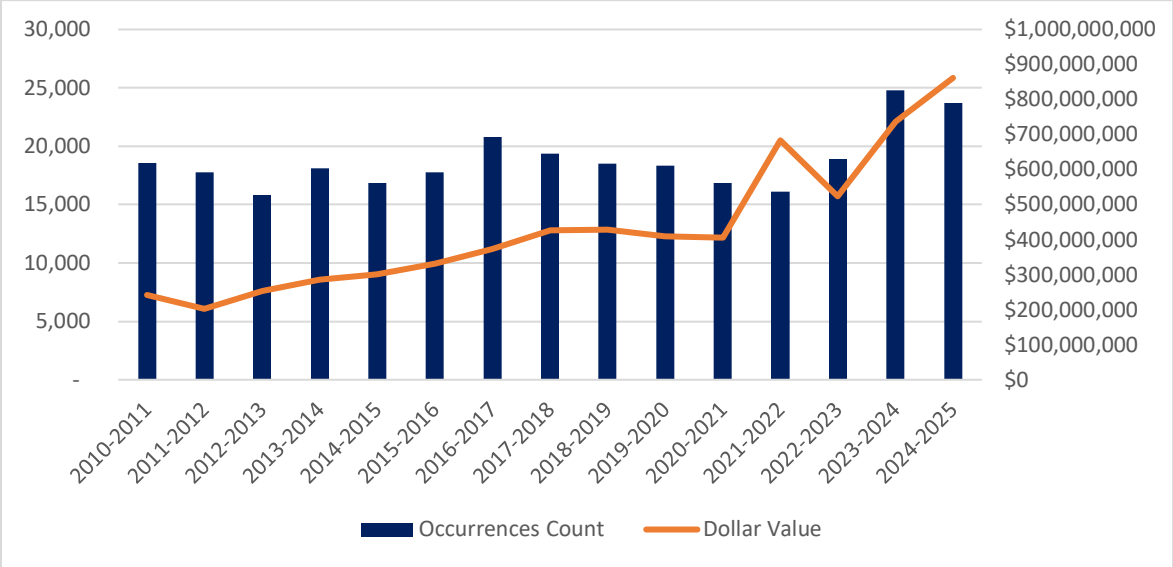
Source: Polco claims data. Analysis by Beacon Economics.

F. Liability Trends Excluding SAM Claims

- Because SAM claims have increased in recent years, particularly following AB 218 and AB 452, it is reasonable to ask whether the broader liability trends documented in this report are primarily attributable to SAM litigation. **To evaluate this question, SAM occurrences were removed from the dataset and analyses presented above were repeated using only non-SAM occurrences.**[8]
- **The results indicate that the broader trends identified throughout this report remain largely unchanged after removing SAM claims.** Non-SAM occurrence closures increased substantially in recent years, rising from approximately 16,000–21,000 occurrences annually for much of the study period to nearly 25,000 occurrences in fiscal year 2023–24.
- **Similarly, total non-SAM closed occurrence values continued to increase significantly over time.** Excluding SAM claims, total closed occurrence values still rose from approximately $240 million in fiscal year 2010–11 to nearly $900 million in fiscal year 2024–25—an increase of over 250%.
- **The findings presented earlier regarding occurrence severity remain largely unchanged after excluding SAM claims.** While lower-value occurrences continue to account for most occurrence closures, large ($1 million to $5 million), severe ($5 million to $10 million), and nuclear/thermonuclear ($10 million+) occurrences became increasingly common over time and account for a growing share of total liability exposure. This suggests that the broader trend toward higher-severity liability claims extends beyond SAM litigation.

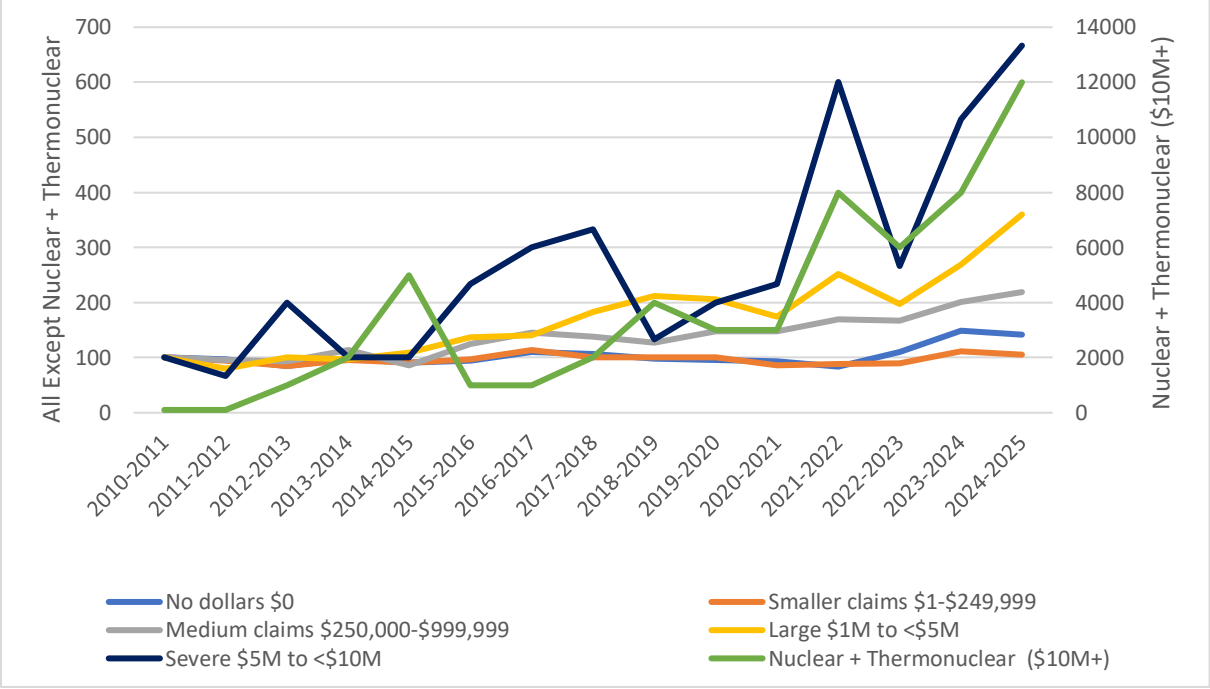
[8] The City of Los Angeles was excluded because historical occurrence projections were developed only at the aggregate occurrence level and could not be disaggregated into SAM and non-SAM categories for years in which underlying occurrence-level data were unavailable.

Figure 15. Dollar Value of Occurrences Closed by Year of Closure, Excluding SAM Occurrences and Excluding City of Los Angeles



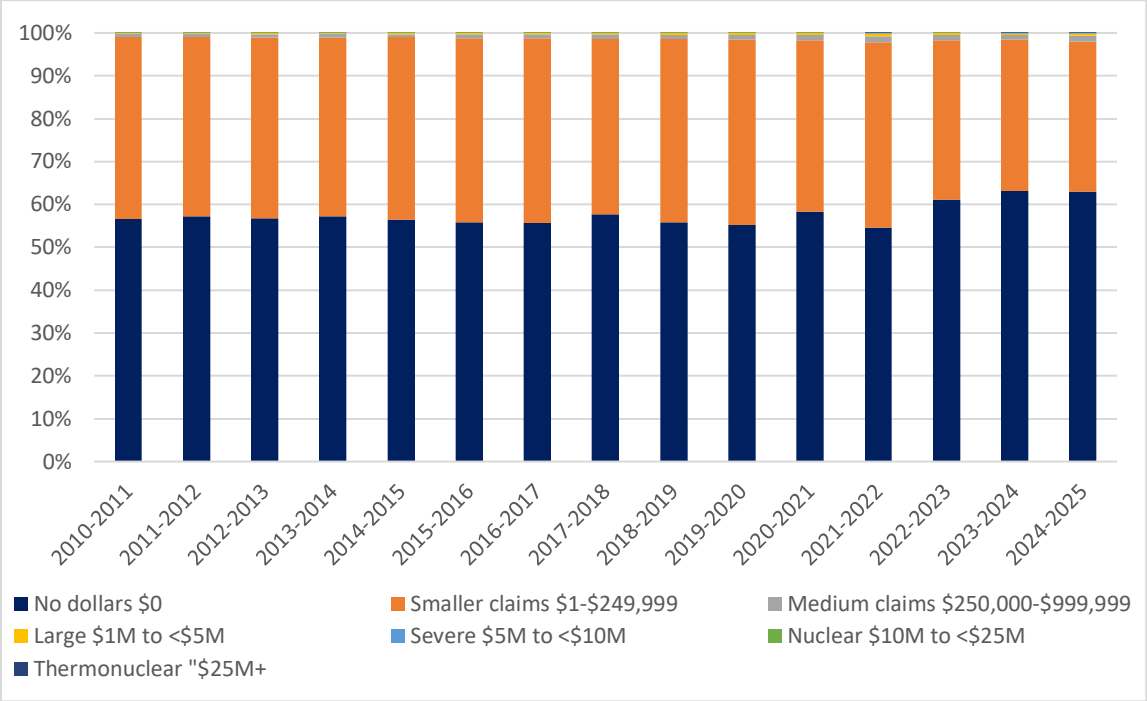
Source: Polco claims data. Analysis by Beacon Economics.

Figure 16. Indexed Number of Occurrences Closed by Size[7] and Year of Closure, Excluding SAM Occurrences and Excluding City of Los Angeles



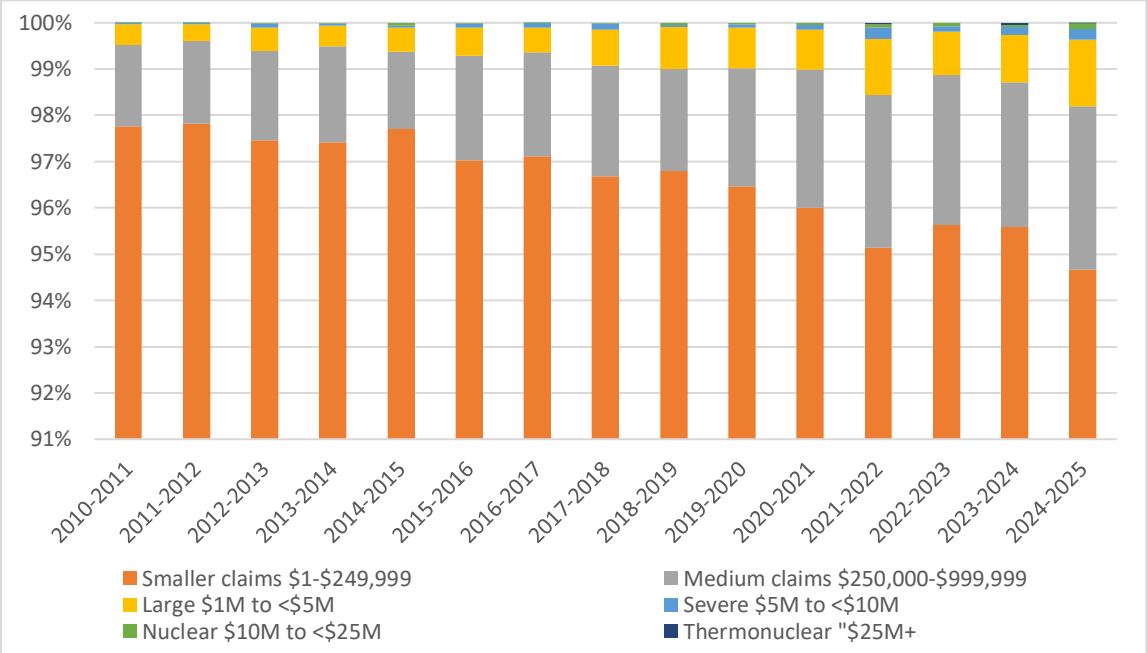
Source: Polco claims data. Analysis by Beacon Economics.

Figure 17. Share of Occurrence Numbers Closed by Size[7] by Year of Closure, Excluding SAM Occurrences and Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

Figure 18. Share of Occurrence Numbers Closed by Size[7] (Excluding No Dollar Claims) by Year of Closure, Excluding SAM Occurrences and Excluding City of Los Angeles



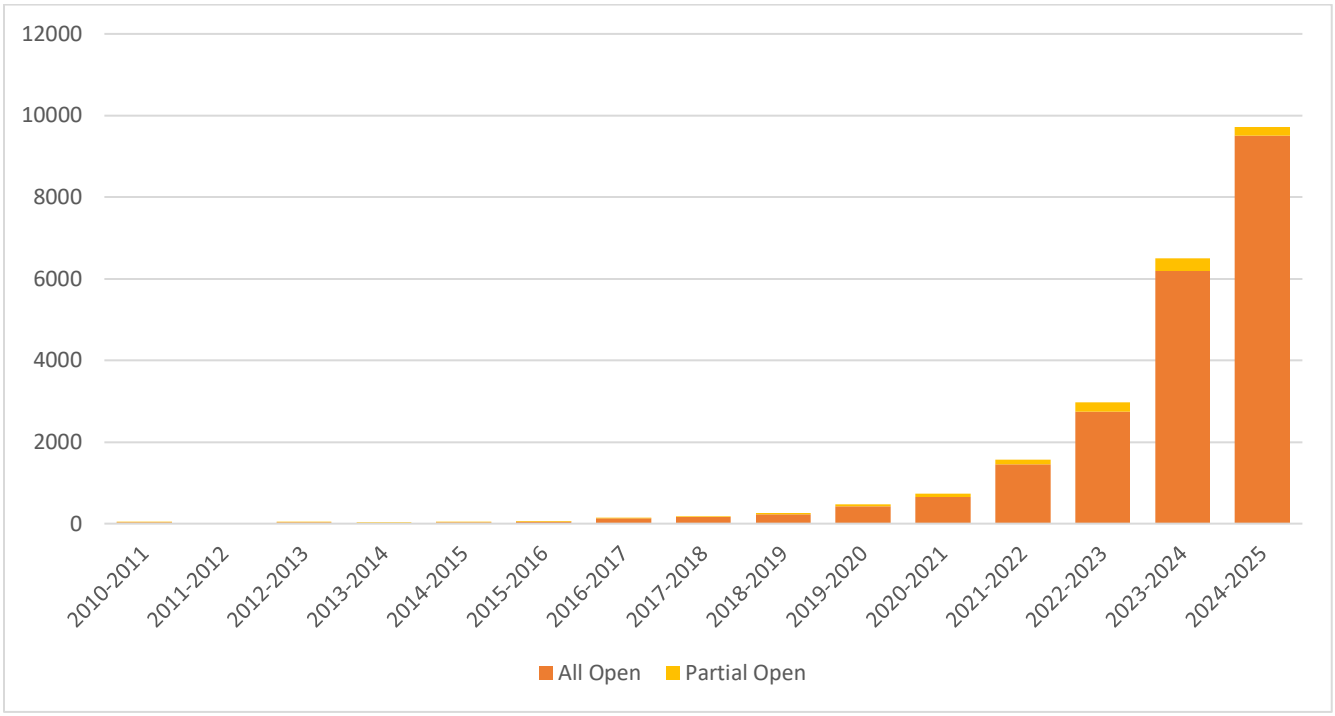
Source: Polco claims data. Analysis by Beacon Economics.

G. Resolution Timelines for Occurrences and Claims[9]

- **Most occurrences resolve within two years**: over 80% close within 23 months, with the largest share (35.0%) closing within 6–11 months. Fewer than 7% take four or more years to resolve.
- **Large occurrences ($1M+) follow a markedly different trajectory**. Approximately 70% take between two and seven years to resolve, compared to much shorter times for occurrences overall. Only about 2% close within 11 months (versus roughly 60% of all occurrences), while approximately 11% take 10 or more years to close, compared to just 1.3% overall.
- **The combination of more large occurrences being filed and longer resolution timelines** means that liability exposure remains outstanding for longer periods of time.
- **Although large claims often require many years to resolve, the overall inventory of open occurrences has remained relatively stable over much of the study period**. This suggests that rising liability exposure cannot be explained solely by growth in the number of unresolved occurrences.
- **Instead, the findings presented throughout this report indicate that increasing claim severity has become an increasingly important driver of public entity liability exposure**. While recent filing cohorts continue to contain large numbers of unresolved occurrences and claims due to higher filing volumes and the time required for claims to reach resolution, the growth in liability exposure appears to reflect not only the duration of claims but also their increasing financial magnitude.

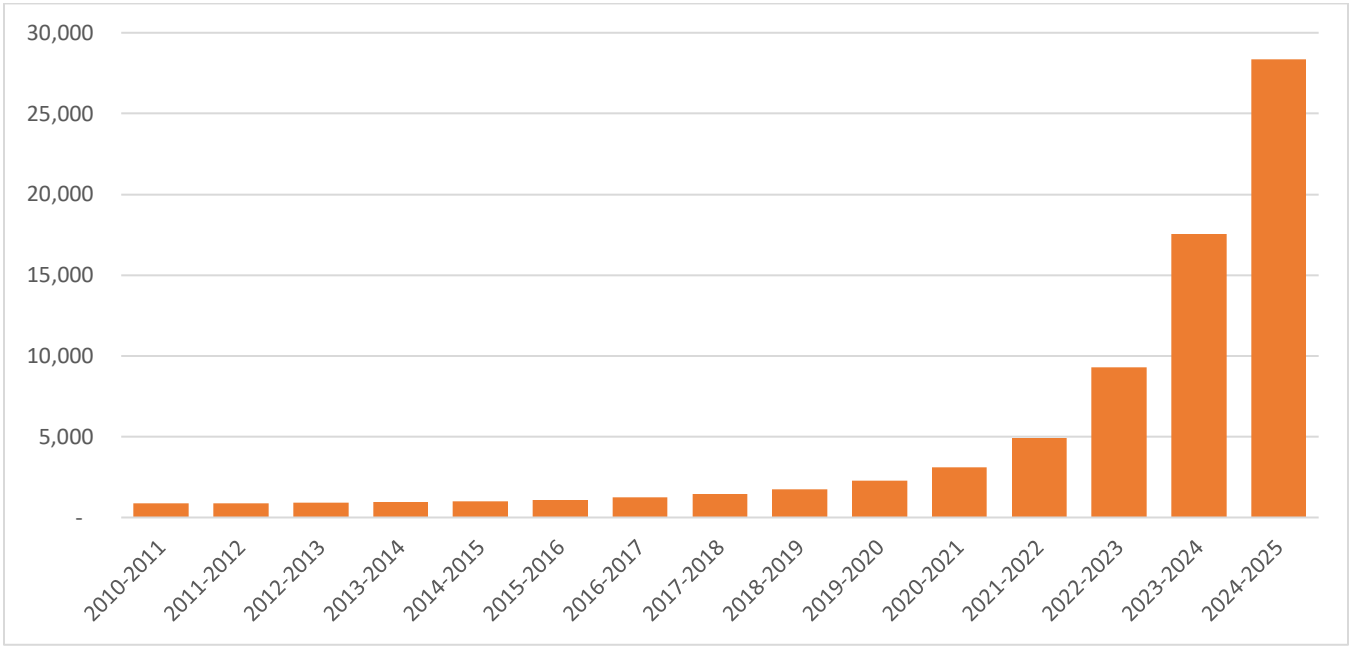
[9] This section is based directly on Polco's analysis of claim closure timelines and was not independently replicated by Beacon Economics.

Figure 19a. Occurrences Remaining Open by Filing Year, Excluding City of Los Angeles



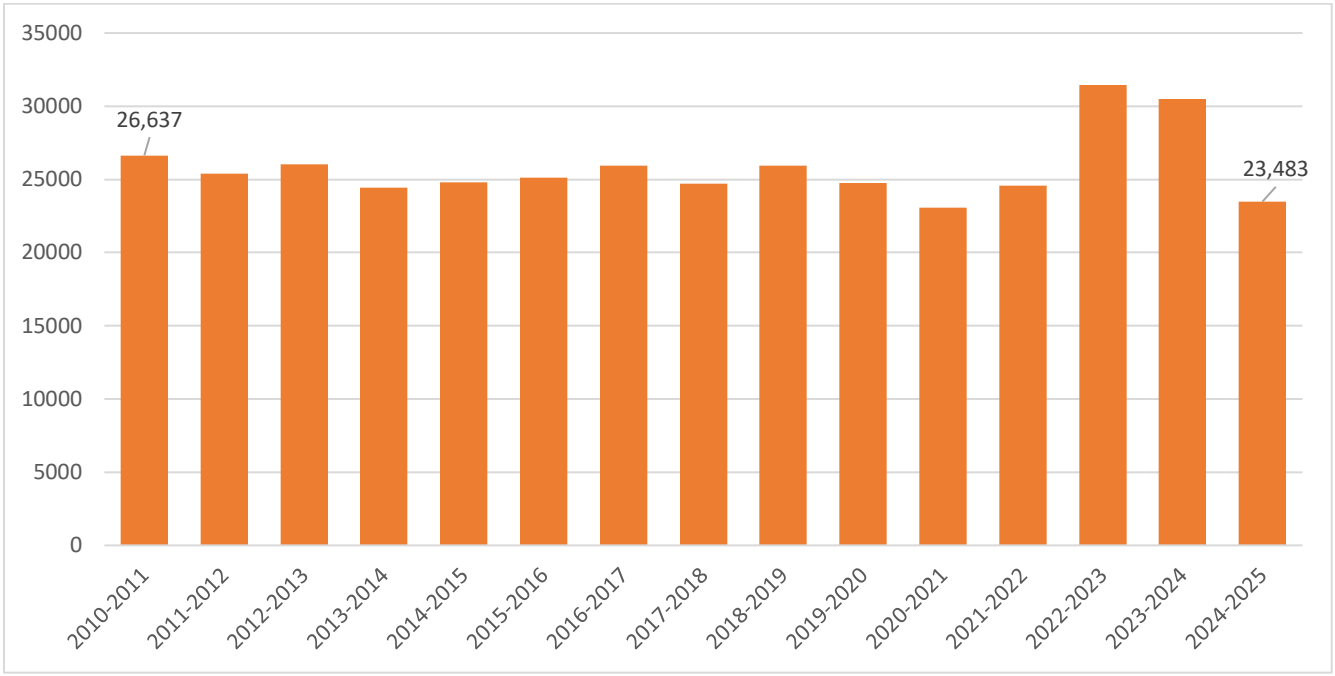
Source: Polco claims data. Analysis by Beacon Economics.

Figure 19b. Claims Remaining Open by Filing Year, Excluding City of Los Angeles



Source: Polco claims data. Analysis by Beacon Economics.

Figure 20. Outstanding Open Occurrences by Fiscal Year



Source: Polco claims data. Analysis by Beacon Economics.

Part II. Liability Exposure and Insurance Trends Across Public Entities

This section compares trends in liability exposure, occurrence severity, pooled retention levels, and insurance costs across different types of California public entities. Because most jurisdictions participate in public risk pools, liability exposure is typically managed with a combination of self-insured retention (SIR) levels, pooled retentions, and reinsurance or excess insurance coverage. Overall, the data show that claim severity, pooled retention levels, and insurance-related costs have all increased substantially, pointing to growing liability pressures on California public entities.

- **Total closed occurrence values have increased across all categories of California public entities over the past decade, even after adjusting for inflation**. California cities experienced the largest aggregate liability exposure, with real closed occurrence values rising from approximately $300 million in fiscal year 2013–14 to nearly $750 million in fiscal year 2024–25. Counties also experienced substantial growth, with total occurrence values more than doubling over the same period to exceed $300 million in fiscal year 2024–25. Educational entities and other public entities, while smaller in aggregate terms, also saw upward trends in total exposure, with educational entities reaching nearly $180 million in fiscal year 2024–25.
- **Average annual closed occurrence values per public entity have also increased materially across entity types**.
    - Among California cities, the average inflation-adjusted total value of closed occurrences per entity rose from approximately $1.1 million in fiscal year 2013–14 to more than $2.3 million in fiscal year 2024–25.
    - Counties consistently exhibited the highest average occurrence values per entity, exceeding $6 million in the most recent fiscal year. This likely reflects the broader operational scope of county governments, including detention facilities, sheriff's departments, public health systems, social services, and healthcare-related operations, all of which may increase exposure to high-severity claims and litigation risk.
    - Educational entities likewise experienced substantial growth in average occurrence values, increasing from approximately $200,000 in inflation-adjusted terms to roughly $1.2 million in

fiscal year 2024–25—an approximately fivefold increase. This suggests that educational entities are facing materially increasing fiscal exposure even though their aggregate totals remain smaller relative to cities and counties. In particular, legislative changes related to SAM claims may contribute to further increases in liability exposure for educational entities going forward.

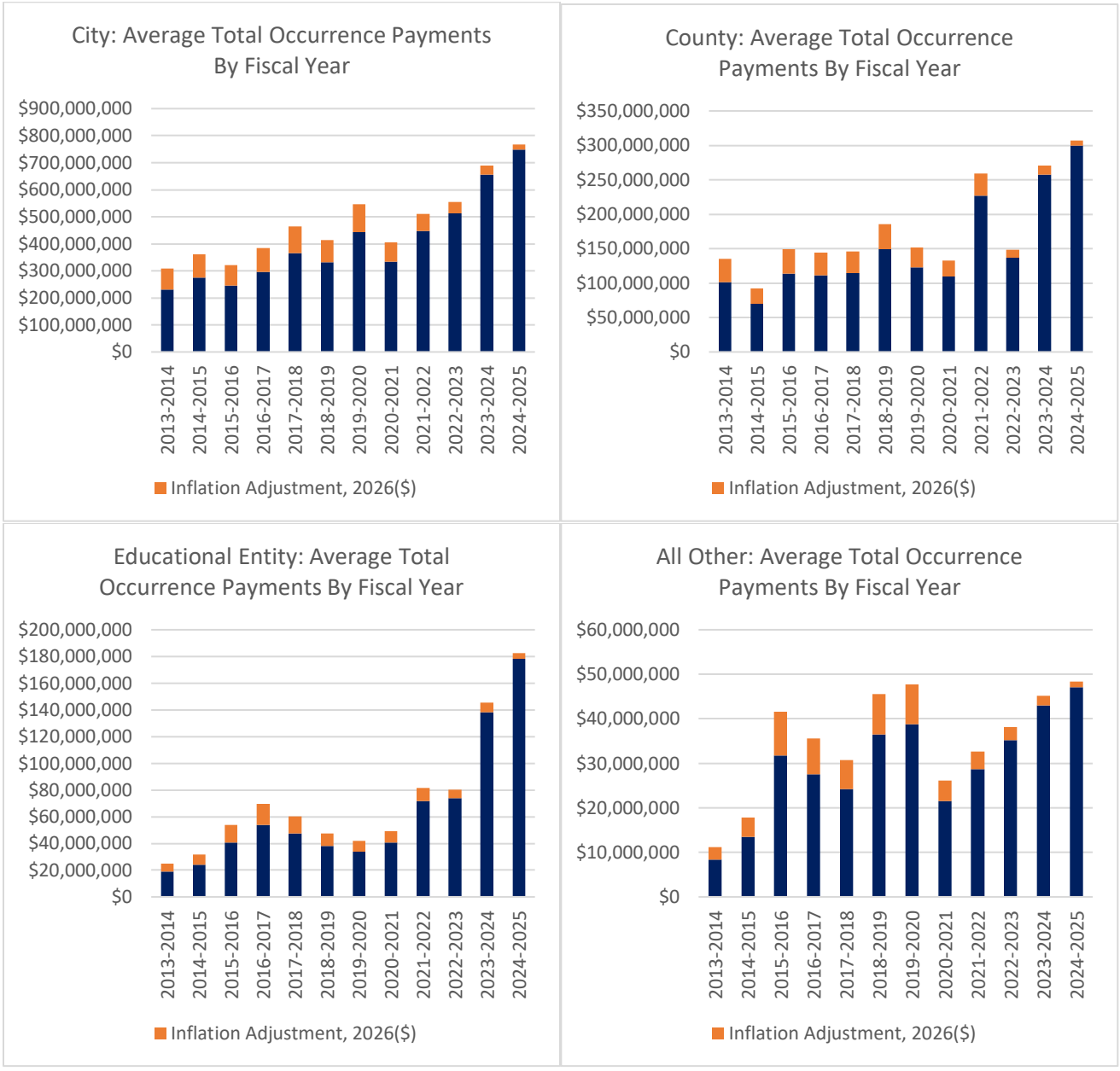
- **SIR levels have trended upward and remain elevated in recent years,** with many cities and counties now retaining $500,000 to $1 million per claim before coverage applies. Higher SIR levels shift more risk directly onto local budgets, meaning large verdicts or settlements can have immediate fiscal impacts even before insurance coverage attaches.
- **Average pooled retention limits increased substantially over the study period**, rising from approximately $1.3 million in fiscal year 2015–16 to nearly $2.9 million in fiscal year 2025–26 — an increase of more than 100%. This suggests that public risk pools are retaining larger layers of liability exposure before excess or reinsurance coverage attaches, potentially reflecting both rising claim severity and tightening reinsurance market conditions.
- **Average reinsurance/excess insurance limits increased more modestly over the same period**, rising from approximately $19 million in fiscal year 2015–16 to nearly $24 million in recent fiscal years. While public entities have faced larger claims, higher pooled retentions, and rising insurance costs, the amount of excess coverage available has grown more slowly. As a result, public entities may be retaining a larger share of liability risk than in prior years.
- **Rising liability exposure has also been accompanied by substantial increases in insurance premiums.**[10] Average reinsurance/excess insurance premiums increased more than fourfold between fiscal year 2015–16 and fiscal year 2025–26, while median premiums also increased sharply over the same period, indicating that rising costs are affecting not only the largest jurisdictions but public entities more broadly. Counties generally faced higher reinsurance premium costs than cities throughout the study period, likely reflecting their broader operational responsibilities, including detention facilities, sheriff's departments, public health systems, and social services. In fiscal year 2025–26, average county reinsurance premiums were approximately $3 to $4 million, more than double the City average. [11]
- **The simultaneous increase in claim severity, pooled retention levels, and insurance premiums suggests that liability costs are placing growing fiscal pressure on California public entities**. Funds allocated toward

[10] Pool premium data were not collected as part of the Polco survey; however, data on reinsurance premiums were collected. See Methodology section for additional details.
[11] Based on select number of pools that provided data on premiums by entity or organization type.

claim payments, pooled retention obligations, and reinsurance premiums reduce the resources available for staffing, infrastructure, maintenance, public safety, and other governmental services.

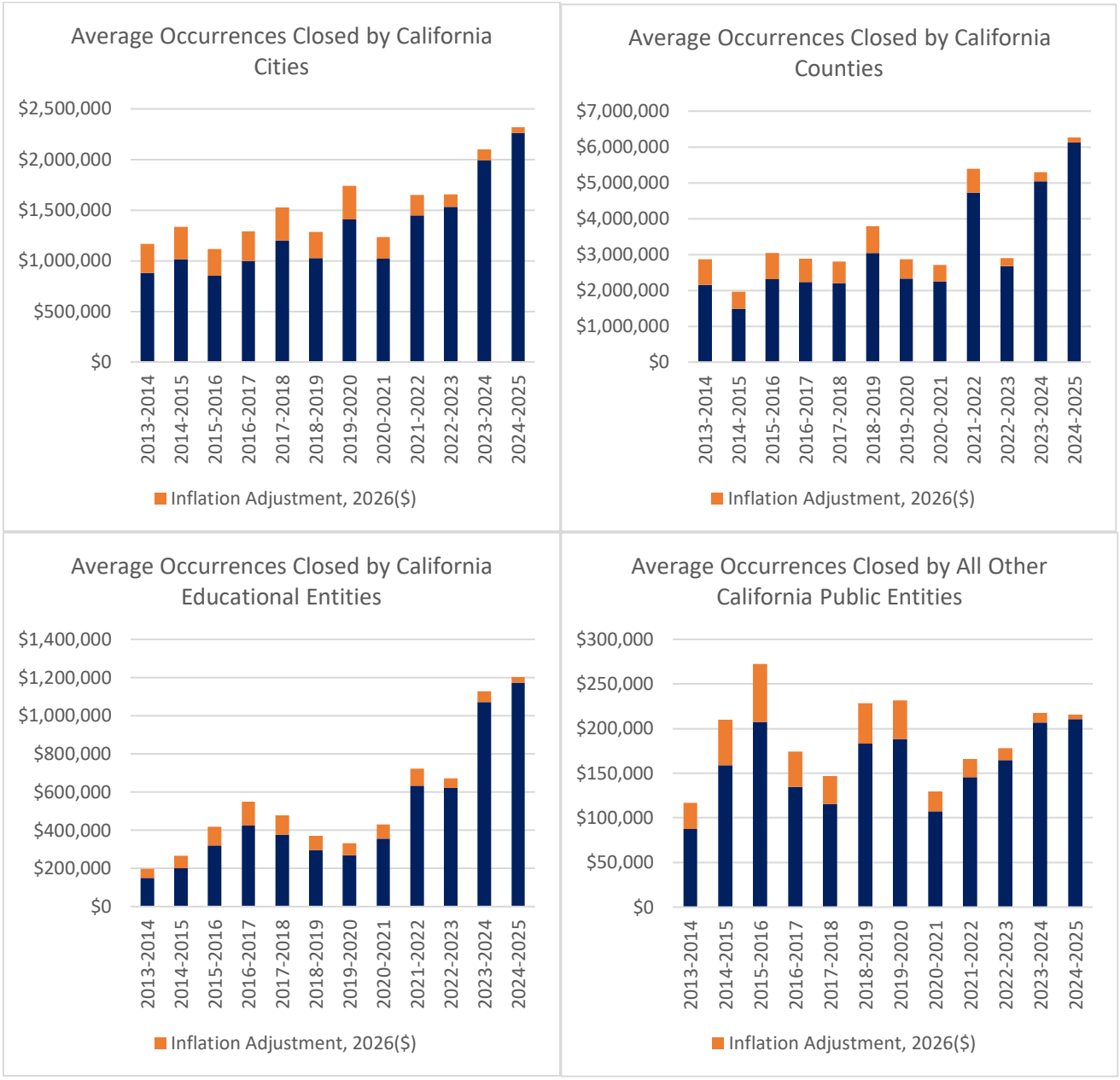
- **Because the survey did not collect data on member pool premiums, the insurance-related costs quantified in this report likely understate the full financial burden associated with rising liability exposure.** To the extent that pool premiums have increased alongside reinsurance premiums, the total fiscal impact on public entities is likely greater than the amounts directly quantified here. As liability costs continue to rise, public entities may face increasing constraints in budget flexibility and long-term fiscal planning.

Figure 21. Average Dollar Value of Occurrences Closed by California Public Entities



Source: Polco claims data; U.S. Bureau of Economic Analysis via FRED. Analysis by Beacon Economics.

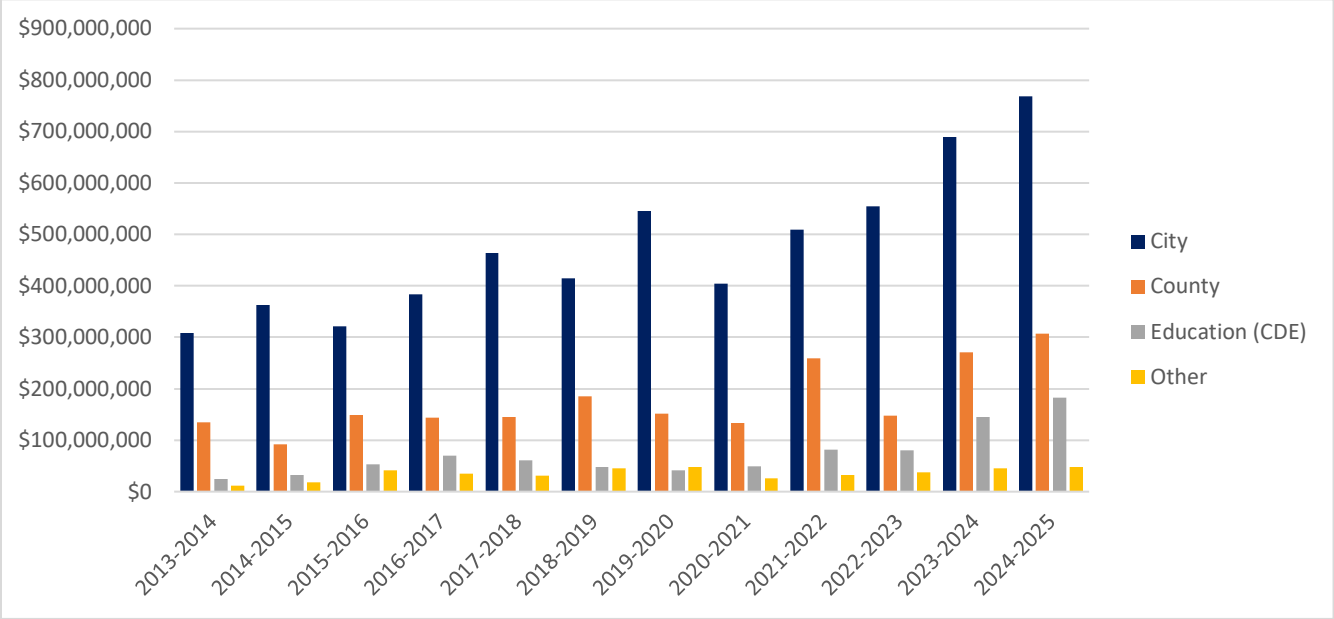
Figure 22. Average Dollar Value of Occurrences Closed by California Public Entities[12]



Source: Polco claims data; U.S. Bureau of Economic Analysis via FRED. Analysis by Beacon Economics.

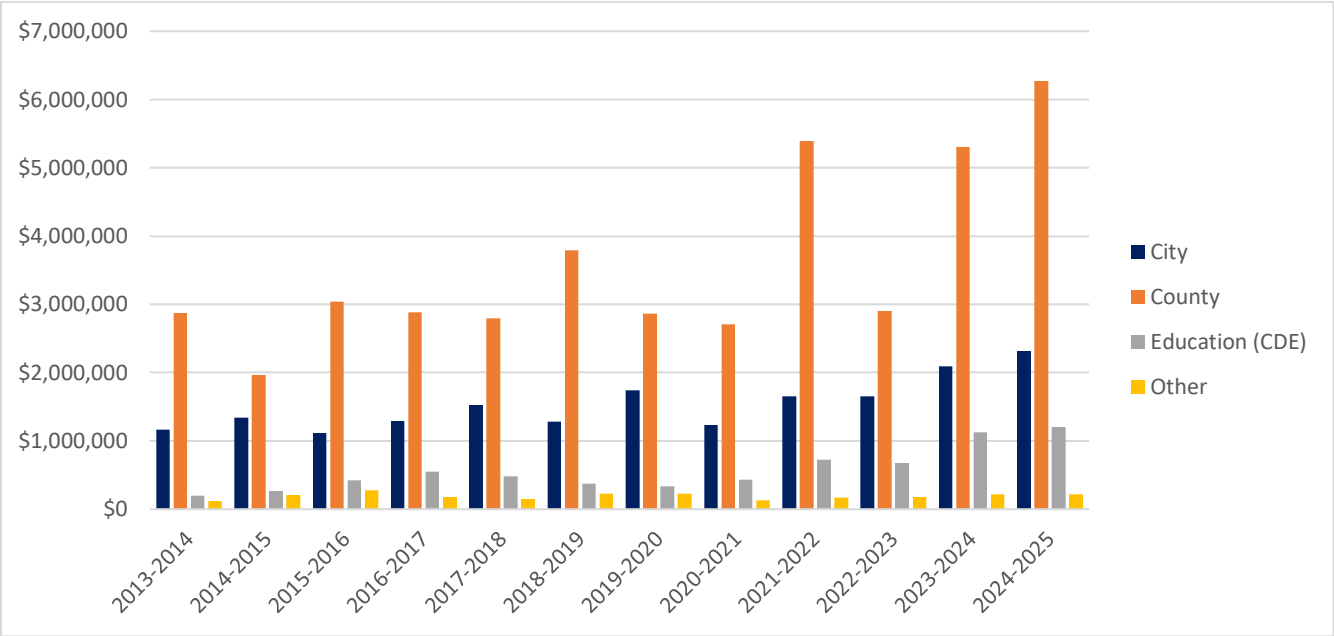
[12] Excluding "No Dollar" occurrences.

Figure 23. Total Real Dollar Value of Occurrences Closed by California Public Entities (2026$)[13]



Source: Polco claims data; U.S. Bureau of Economic Analysis via FRED. Analysis by Beacon Economics.

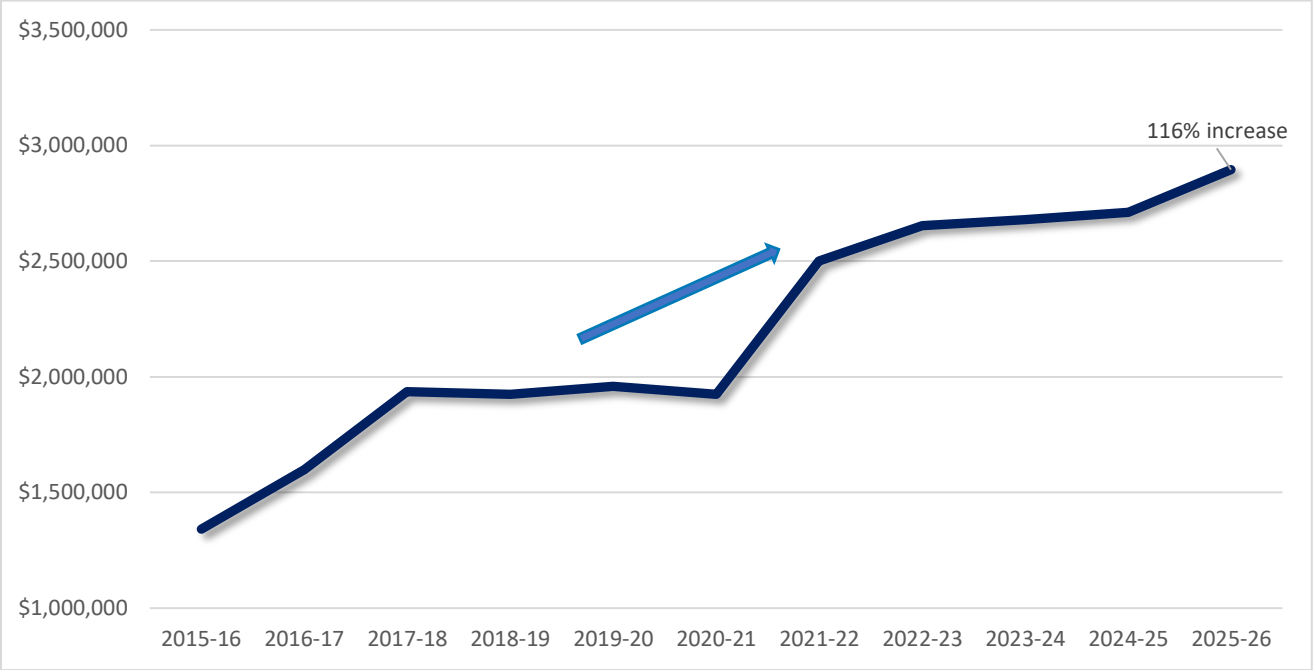
Figure 24. Average Real Dollar Value of Occurrences Closed by California Public Entities (2026$)[14]



Source: Polco claims data; U.S. Bureau of Economic Analysis via FRED. Analysis by Beacon Economics.

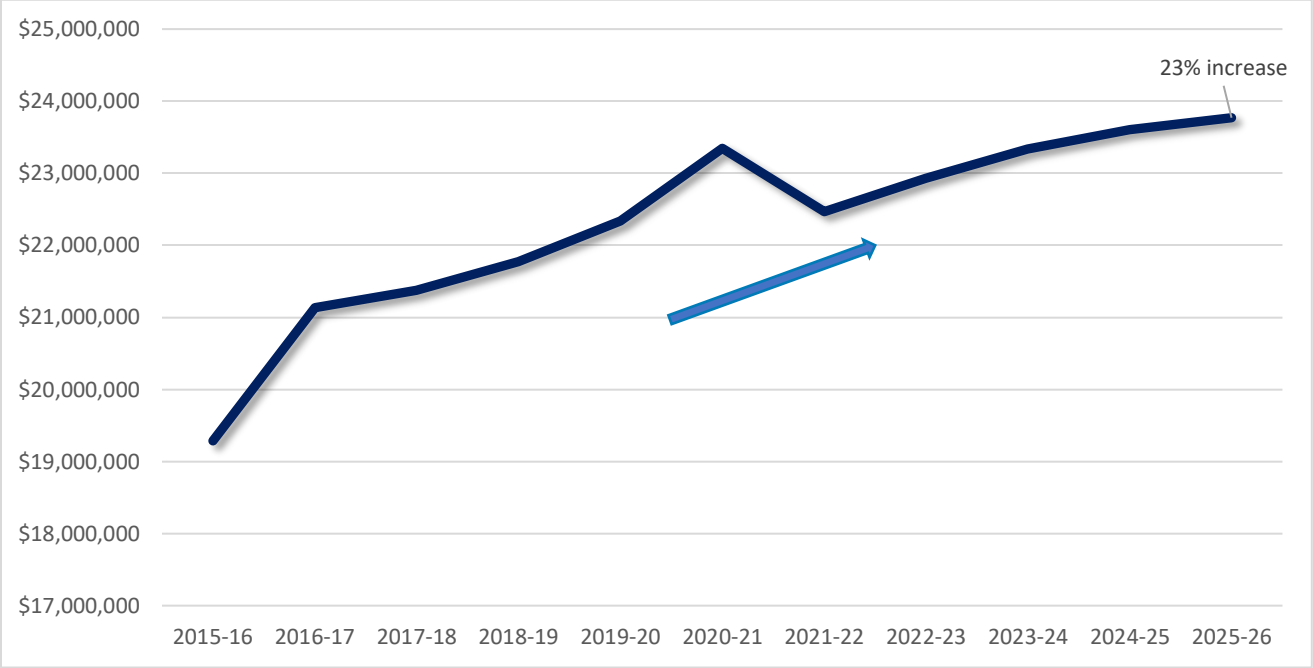
[13] Excluding "No Dollar" occurrences.
[14] Excluding "No Dollar" occurrences.

Figure 25. Average Pooled Retention Limit



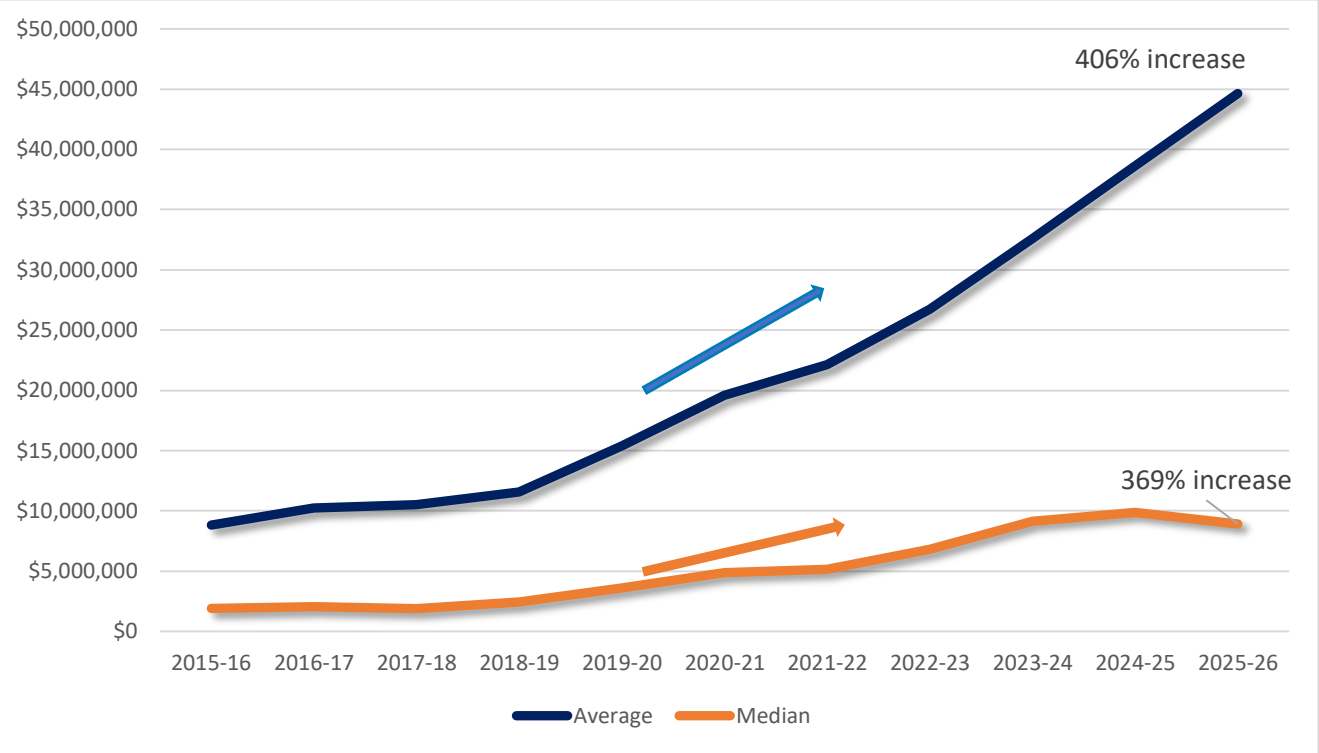
Source: Polco claims data. Analysis by Beacon Economics.

Figure 26. Average Reinsurance/Excess Insurance Limits



Source: Polco claims data. Analysis by Beacon Economics.

Figure 27. Reinsurance/Excess Insurance Premium (Average and Median)



Source: Polco claims data. Analysis by Beacon Economics.

Part III. Liability Exposure in Relation to Departmental Operating Budgets

The trends described in the previous section have important implications for public entity finances and budgeting. Rising liability exposure affects public entities not only through direct claim payments but also through increasing insurance premiums, SIR obligations, and legal defense costs. As liability-related expenditures consume a larger share of public resources, fewer funds remain available for staffing, infrastructure, maintenance, public safety, and other governmental services.

- Closed claim costs represent a significant share of departmental operating budgets across multiple categories of California public entities.
- California cities:
    - Among California cities in fiscal year 2013–14, average closed claims equaled approximately 15.4% of Parks and Recreation budgets, 9.8% of Fire Protection budgets, and 7.6% of Roads and Public Works budgets.
    - By fiscal year 2023–24, the relative fiscal burden had increased considerably across several city departments. Average closed claims reached approximately 23.9% of Parks and Recreation budgets and 17.9% of Roads and Public Works budgets.
    - Certain smaller municipal service categories appear particularly vulnerable to liability-related fiscal volatility. Among cities, average Health / EMS-related claim costs approached 94.7% of average departmental budgets in fiscal year 2023–24, though this likely reflects the relatively small size and variability of such departments.
- California counties:
    - County-level exposure patterns differed somewhat from cities because of larger departmental budgets and broader operational structures. However, several county departments still exhibited substantial relative exposure levels.
    - Relative liability burdens increased materially across some county departments between fiscal year 2013–14 and fiscal year 2023–24, though trends were not uniform. Roads and Public Works

departments experienced some of the largest increases over the period analyzed (approximately 37%), while Parks and Recreation departments saw more moderate increases. Health/EMS departments remained comparatively stable.

  - In fiscal year 2023–24, average closed claims among counties equaled approximately 42.8% of Roads and Public Works budgets and 12.1% of Parks and Recreation budgets.

- **Overall, the analysis suggests that total organization-wide liability costs can be significant when compared to the budgets of certain functional departments.** While these claims are not necessarily attributable to those departments, the comparison illustrates that the overall cost of claims can equal a substantial percentage of departmental budgets, highlighting the extent to which liability costs can affect resources that might otherwise support public services, maintenance, and capital improvements.

Table 1. Average Closed Claims Per City Relative to Departmental Budgets

	FY 2013-2014		FY 2023-2024		
Department	**Average Department Budget**	**Closed Claims as % of Budget**	**Average Department Budget**	**Closed Claims as % of Budget**	**Change**
Police	$22,234,870	3.95%	$34,072,780	5.86%	1.91%
Fire Protection	$8,960,768	9.79%	$14,633,292	13.64%	3.85%
Parks and Recreation	$5,693,232	15.41%	$8,365,118	23.85%	8.44%
Roads and Public Works	$11,538,898	7.60%	$11,146,118	17.90%	10.30%
Health / EMS	$1,045,515	83.90%	$2,106,902	94.70%	10.80%

Source: Polco claims data and California State Controller's Office. Analysis by Beacon Economics.

Table 2. Average Closed Claims Per County Relative to Departmental Budgets

	FY 2013-2014		FY 2023-2024		
Department	**Avg. Department Budget**	**Closed Claims as % of Budget**	**Avg. Department Budget**	**Closed Claims as % of Budget**	**Change**
Police	$91,663,574	2.35%	$147,643,072	3.42%	1.07%
Fire Protection	$8,388,391	25.71%	$64,855,172	7.78%	-17.93%
Parks and Recreation	$12,490,785	17.27%	$41,718,401	12.09%	-5.18%
Roads and Public Works	$34,756,615	6.20%	$11,775,401	42.83%	36.63%
Health / EMS	$175,375,067	1.23%	$434,381,327	1.16%	-0.07%

Source: Polco claims data and California State Controller's Office. Analysis by Beacon Economics.

Part IV. Legal Framework

This section summarizes key aspects of California tort law that affect the financial exposure of public entities. It describes the types of damages that may be recovered against public entities, how fault is allocated among multiple parties, and how liability may arise in cases involving dangerous conditions of public property. It also explains how damage awards are affected by rules governing joint and several liability, collateral source payments (such as insurance), attorney fee structures, and the availability of periodic payment of large judgments. Finally, the section reviews recent statutory changes affecting sexual assault claims and reforms to medical malpractice law under MICRA, which provide an important point of comparison. These rules influence the size of potential awards and the level of financial risk faced by public entities.

Compensatory Damages Against Public Entities

In many cases, compensatory damages are not subject to a general cap simply because the defendant is a public entity. Under the California Tort Claims Act, if a plaintiff successfully proves that a public entity is legally liable (meaning the claim is authorized by statute and not barred by sovereign immunity), the plaintiff may recover compensatory damages, just as they could against a private defendant.

Compensatory damages include **economic damages**, such as medical expenses and lost wages, as well as **non-economic damages**, such as pain and suffering or emotional distress. In most types of tort cases, California law does not impose a statutory limit on the amount of these damages.

One important exception is **punitive damages**. The California Tort Claims Act does not allow punitive damages to be awarded against public entities. Punitive damages are intended to punish particularly egregious conduct and are rarely awarded in civil injury cases, even when they are available.[15]

[15] McClellan Law Firm. (n.d.). *Government liability in California*. https://www.mcclellanlaw.com/personal-injury/government-liability/

A. Pure Comparative Negligence

Historically, California used the **contributory negligence doctrine**, which barred recovery by any plaintiff found even minimally at fault. A plaintiff who was just 1% responsible for an accident could be denied compensation entirely.

In 1975, the California Supreme Court ruled in Li v. Yellow Cab Co. that the contributory negligence rule was overly punitive and unfair, describing it as inequitable in its "all-or-nothing" operation.[16] The Court replaced it with a **pure comparative negligence system**, under which damages are allocated according to each party's share of fault.

Under this system, a plaintiff's recovery is reduced in proportion to their percentage of responsibility for the injury. For example, if a plaintiff is found to be 30% at fault, their damages award is reduced by 30%. Even a plaintiff who is primarily responsible for an accident may still recover a portion of damages corresponding to the defendant's share of fault.[17] This ruling marked a shift in personal injury cases, allowing plaintiffs to receive compensation even if they are primarily at fault.

B. Dangerous Conditions of Public Property

California imposes liability on public entities for injuries caused by a dangerous condition of public property under Government Code § 835. To establish liability, a plaintiff must prove: (1) the property was in a dangerous condition at the time of injury; (2) the injury was proximately caused by the dangerous condition; (3) the dangerous condition created a reasonably foreseeable risk of the kind of injury incurred; and (4) either a government employee's negligent act created the condition, or the public entity had actual or constructive notice of the dangerous condition with sufficient time to remedy it.[18]

[16] Li v. Yellow Cab Co., 13 Cal. 3d 804, 532 P.2d 1226 (Cal. 1975). Retrieved January 27, 2026, from https://law.justia.com/cases/california/supreme-court/3d/13/804.html

[17] Rodriguez & Associates. (2019, May 24). California comparative fault laws. https://www.rodriguezlaw.net/california-comparative-fault-laws/

[18] Cal. Gov. Code § 835.

What Counts as a Dangerous Condition? This is defined in California as a condition of property that creates a substantial risk of injury when used with due care in a reasonably foreseeable manner.[19] This standard sets a relatively low threshold: the condition needs only to pose more than a minor risk of harm. For example, conditions such as a cracked sidewalk or an unmarked curb may qualify depending on the circumstances.

Notice Requirement: Even when a dangerous condition exists, a public entity is liable only if it either created the condition through a government employee's negligence or had notice of the condition in time to address it. Notice may be actual[20] (for example, where someone reported the problem or staff observed it) or constructive[21] (where the condition was obvious enough or existed long enough that routine inspections should have discovered it). California courts determine whether constructive notice exists on a case-by-case basis, considering factors such as the location, size, and obviousness of the defect. Courts do not establish clear temporal benchmarks for how long a condition must exist before notice is presumed.

Dangerous Conditions and Third-Party Conduct: The statutory definition is only the starting point. California courts have interpreted § 835 to allow liability even when an accident is initially triggered by third-party negligence or criminal conduct. In such cases, a public entity may still face liability if a physical characteristic of the property is found to have contributed to the resulting injuries. Courts distinguish between causing the third party's conduct and increasing the risk of harm once that conduct occurs. As a result, claims may focus not only on defects created or left unaddressed by the public entity, but also on whether features of public property failed to protect users from foreseeable third-party misconduct or otherwise intensified the consequences of that conduct.

Illustration: In Cordova v. City of Los Angeles (2015), the California Supreme Court addressed the interaction between dangerous conditions and third-party conduct.[22] Three children were killed when a negligent driver collided with their vehicle, causing it to strike a magnolia tree planted on a city-owned center median on Colorado Boulevard. The parents sued the City under § 835, alleging the trees were too close to the roadway and created an unreasonable risk to motorists who might lose control of their vehicles.

[19] Government Code § 830(a) defines a dangerous condition as "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used."
[20] Cal. Gov. Code § 835.2(a).
[21] Cal. Gov. Code § 835.2(b).
[22] https://law.justia.com/cases/california/supreme-court/2015/s208130.html

The City argued it should not be liable because it did not cause the negligent driver's conduct. The California Supreme Court rejected this argument, holding that plaintiffs need only show that the dangerous condition proximately caused their injuries, not that it also caused the third party's negligent conduct. The Court explained that liability may arise when a physical characteristic of the property exposes users to an increased risk of harm once third-party conduct occurs.

This interpretation means public entities may face liability where infrastructure features (such as trees near roadways, barriers, lighting conditions, or other design characteristics) combine with third-party negligence to cause injury. Courts therefore consider whether features of the property increased the risk or severity of harm, even when another party's conduct precipitated the incident.

Limitation on Liability: The Trivial Defect Doctrine: California law does provide a limited exception for minor conditions that do not create a meaningful risk of injury. Under the "trivial defect doctrine," courts may dismiss claims involving conditions such as very small sidewalk cracks or minor pavement irregularities that do not rise to the level of a dangerous condition.[23] However, courts evaluate triviality considering factors such as the size of the defect, its location, whether it was readily visible, and surrounding conditions. Because this determination is highly fact-specific, courts typically evaluate triviality on a case-by-case basis rather than applying clear numerical thresholds or bright-line rules. As a result, public entities may still be required to defend claims involving relatively minor conditions until courts determine whether the alleged defect qualifies as trivial.

C. Joint and Several Liability

California operates under a hybrid joint and several liability system, established by voter initiative in 1986. Before 1986, California followed the traditional common law rule under which defendants in tort cases were jointly and severally liable for all damages, both economic and non-economic. Under this rule, each defendant found liable could be required to pay the entire judgment, regardless of their individual percentage of fault, the rationale being that innocent plaintiffs should not bear the risk of a defendant's insolvency.[24]

Before the adoption of Proposition 51, the California Supreme Court strongly endorsed this traditional rule in American Motorcycle Ass'n v. Superior Court (1978), holding that "where the independent concurring acts of

[23]Murai, G. (2022, October 31). A trivial case. California Construction Law Blog. https://calconstructionlawblog.com/2022/10/31/a-trivial-case/

[24] American Motorcycle, 20 Cal.3d at 586-587, 590-592; CAL. CODE CIV. PROC. § 877 (contribution among joint tortfeasors).

several tortfeasors cause an indivisible injury, each tortfeasor is liable for the entire damage suffered by the plaintiff." The Court reasoned that this rule "encourages a realistic evaluation of the causes of injury and increases the likelihood that the injured plaintiff will receive adequate compensation."[25]

Proposition 51 and the Creation of a Hybrid System: On June 3, 1986, California voters fundamentally altered this framework by approving Proposition 51, officially titled the Fair Responsibility Act of 1986. The measure was adopted during a broader tort reform movement supported by business groups, insurance companies, and municipal governments seeking to limit liability exposure.[26] Proposition 51 added California Civil Code § 1431.2, which changed how damages are allocated among defendants. The statute provides that in actions for personal injury, property damage, or wrongful death based on comparative fault, liability for non-economic damages is several only, meaning each defendant is responsible only for their proportional share of those damages.

Specifically, each defendant is liable only "for the amount of non-economic damages allocated to that defendant in direct proportion to that defendant's percentage of fault."[27]

However, the statute preserves joint and several liability for economic damages, providing that "the liability of any party for economic damages jointly caused shall be joint and several."[28]

The statute defines economic damages as "objectively verifiable monetary losses including medical expenses, loss of earnings, burial costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, loss of employment and loss of business or employment opportunities," while non-economic damages encompass "subjective, non-monetary losses including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation."[29]

The practical effect of Proposition 51 is a split system. Defendants remain jointly and severally liable for economic damages (meaning the plaintiff can collect the full amount of medical bills, lost wages, and other monetary losses from any one defendant) but are severally liable only for their proportionate share of non-economic damages (meaning each defendant pays only their allocated percentage of pain and suffering awards).[30]

[25] American Motorcycle Ass'n v. Superior Court, 20 Cal.3d 578, 586-587 (1978)
[26] Proposition 51 (Fair Responsibility Act of 1986), approved by voters June 3, 1986, codified at CAL. CIV. CODE § 1431.2
[27] CAL. CIV. CODE § 1431.2(a) (West 2024).
[28] CAL. CIV. CODE § 1431.2(b)(1).
[29] CAL. CIV. CODE § 1431.2(b)(2).
[30] DaFonte v. Up-Right, Inc., 2 Cal.4th 593, 601 (1992)

Implications for Government Entities: Because Proposition 51 retained full joint and several liability for economic damages, defendants may be required to pay the entire amount of economic losses regardless of their percentage of fault. In practice, this rule can create significant exposure for government entities when co-defendants lack the financial resources to satisfy judgments. Public entities often have insurance coverage and identifiable assets, which can make them the most reliable source of recovery for plaintiffs. When other responsible parties are uninsured or insolvent, government defendants may ultimately bear a disproportionate share of economic damages.

Example: For example, consider a case in which a poorly maintained county road contributes 20% to an accident primarily caused by a drunk driver who bears 80% of the fault. If the plaintiff incurs $500,000 in economic damages and the drunk driver is uninsured, the county may be required to pay the full amount under joint and several liability.

Although the county could theoretically seek a contribution from the drunk driver under Code of Civil Procedure § 877, that right could prove meaningless if the driver lacks the financial ability to pay. In such cases, the county may ultimately bear the full economic damages despite being responsible for only a portion of the fault.

D. Collateral Source Rule

In California, the "collateral source rule" tends to favor plaintiffs, in that defendants are barred from introducing any evidence of payment from a collateral source, and a plaintiff's recoverable damages are generally not reduced by such payments. This rule includes payments from insurance companies that reserve the right to subrogate to the rights of the plaintiff, as well as gratuitous sources and insurance companies that are unable to recover any of the money they paid the plaintiff. California's justification for this rule includes the policy goals of encouraging citizens to purchase insurance and ensuring that tortfeasors pay full compensation for injuries inflicted.[31]

Although California strictly adheres to the collateral source rule, important qualifications apply depending on the type of case.

[31] Goldberg, B. P. (2016, October 24). The "Collateral source rule" is alive and well in California! Barry P. Goldberg. Retrieved January 27, 2026, from https://barrypgoldberg.com/collateral-source-rule-alive-well-california/

1. **An exception to the collateral source rule exists for certain medical malpractice claims**. Pursuant to California Civil Code §3333.1, when an action for personal injury is brought against a healthcare provider based on that provider's professional negligence, the healthcare provider can elect "to introduce evidence of any amount payable as a benefit to the plaintiff because of the personal injury." If the defendant does so, the plaintiff may introduce evidence of amounts paid or contributed to secure those benefits (such as insurance premiums). This exception applies specifically to actions against healthcare providers for professional negligence.[32]
2. **A 2011 court decision limited the collateral source rule in personal injury cases involving medical expenses.** Insurance companies often have arrangements with certain healthcare providers, whereby the insurance companies pay reduced rates. For example, while the regular rate for a certain service received by a plaintiff could be one amount, due to an agreement between the healthcare provider and the insurance company, the insurance company would pay a reduced amount, while the plaintiff would receive the same service. In Howell v. Hamilton Meats & Provisions, Inc. (2011) 52 Cal. 4th 541, the California Supreme Court held that a plaintiff may recover as economic damages only the amounts actually paid or incurred for medical services, not the higher amounts initially billed but later written off pursuant to agreements between providers and insurers.[31] In personal injury cases, third-party payors (such as Medi-Cal, workers' compensation programs, or health insurers) may be reimbursed for benefits they paid if the plaintiff later recovers money from the defendant. This does not reduce the amount the defendant owes at trial and is not an exception to the collateral source rule. Instead, it affects how the recovery is divided after a settlement or judgment is paid.
3. **A 2018 court decision clarified the collateral source rule as applied to insured plaintiffs who elect to receive treatment outside their insurance plan.** In Pebley v. Santa Clara Organics, LLC (2018), the California Court of Appeal addressed a question left open by Howell: what damages standard applies when a plaintiff who has health insurance chooses to seek treatment from providers outside their insurance plan?[33] The court held that where a plaintiff obtains treatment entirely outside their insurance network, and no insurer-negotiated rates apply, the Howell limitation does not apply. In such cases, the

[32] Cal. Civ. Code § 3333.1 (enacted by Stats. 1975, Ch. 1, § 1, operative Jan. 1, 1976)
[33] Pebley v. Santa Clara Organics, LLC, No. B277893 (Cal. Ct. App. May 8, 2018).

plaintiff may recover the reasonable value of the medical services, even if that exceeds amounts that might have been paid under an insurance arrangement.[34]

Together, Howell and Pebley establish separate standards for recovery of past medical expenses in California personal injury cases. Where a plaintiff uses their health insurance, recovery is limited to the amounts actually paid or incurred pursuant to insurer-negotiated rates. Where a plaintiff obtains treatment outside their insurance plan, and no such negotiated rates apply, the plaintiff may recover the reasonable value of the services rendered, subject to the defendant's ability to challenge the reasonableness of those amounts at trial.

Aside from the case types discussed above, the general and longstanding rule in California is that evidence of payment from a collateral source is inadmissible, and a plaintiff's damages are not reduced because of payment from a collateral source.[35]

E. MICRA

In 2022, the Consumer Attorneys of California (CAOC) and the California Medical Association negotiated legislation reforming the Medical Injury Compensation Reform Act of 1975 (MICRA), including adjustments to statutory caps on non-economic damages.[36,37,38] Since 1975, MICRA limited non-economic damages (such as pain and suffering) in medical malpractice cases to $250,000. The cap remained unchanged for decades, even as inflation eroded its value. Assembly Bill 35 (Reyes/Umberg), signed into law in May 2022, increased the cap and provided for future adjustments intended to address the long-standing erosion of the cap's value.

[34] The case arose from a motor vehicle accident in which the plaintiff, although covered by health insurance, elected to obtain all medical services from out-of-network providers. A jury found the defendants liable and awarded the plaintiff $3,644,000 in damages, including $269,000 for past medical expenses and $375,000 for future medical expenses, largely reflecting the full amounts billed by the treating providers rather than any reduced insurance rates.

[35] Harmonie Group. (2016). *50 state collateral source rule overview*. https://www.harmonie.org/file/Litigation%20Best%20Practices/Collateral%20Source%20Rule%202016.pdf

[36] Assembly Bill 35 (Reyes/Umberg), signed by Governor Gavin Newsom on May 23, 2022, modernized the Medical Injury Compensation Reform Act (MICRA) by restructuring limits on attorney fees and raising caps on noneconomic damages CA (Governor Gavin Newsom, "Governor Newsom Signs Legislation to Modernize California's Medical Malpractice System", May 23, 2022, https://www.gov.ca.gov/2022/05/23/governor-newsom-signs-legislation-to-modernize-californias-medical-malpractice-system/).

[37] AB 35 was put forth by Assembly Majority Leader Eloise Gómez Reyes (D-San Bernardino) and State Senator Tom Umberg (D-Santa Ana) and was co-sponsored by the Consumer Attorneys of California (CAOC) and Californians Allied for Patient Protection CA (California Senate Judiciary Committee Analysis, AB 35 (Reyes), April 27, 2022, https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/ab_35_reyes_sjud_analysis_updated.pdf).

[38] **Full Legislative Citation:** Assembly Bill No. 35, 2021-2022 Regular Session, Chapter 17, Statutes of 2022, effective January 1, 2023.

Under AB 35:

- For non-death cases, the cap increased from $250,000 to $350,000 on January 1, 2023, and will increase annually until it reaches $750,000 in 2033.
- For wrongful death cases, the cap increased to $500,000 on January 1, 2023, rising annually until it reaches $1,000,000 in 2033.
- Beginning in 2034, the caps will increase annually by 2%.

AB 35 also modified how caps apply across multiple defendants, allowing separate caps for healthcare providers and healthcare institutions in certain circumstances.

Periodic Payments

MICRA also contains provisions governing periodic payments and attorney contingency fees. Under Code of Civil Procedure § 667.7, defendants in medical malpractice actions may request that future damages exceeding $250,000 be paid periodically rather than in a lump sum (historically, the threshold was $50,000).[39,40] The statute authorizes courts to order structured payments designed to compensate future losses as they are incurred, subject to court approval and appropriate funding mechanisms.

California law does provide limited mechanisms for periodic payments in tort cases involving public entities. Government Code §§ 970.6[41] and 984[42] allow certain judgments to be paid over time under specified circumstances, including situations involving unreasonable hardship or qualifying large uninsured judgments. However, these provisions are subject to significant restrictions, including hardship requirements, court approval, mandatory upfront payments in some cases, and continued interest accrual. Consequently, the practical use of periodic payment arrangements may be limited relative to the options available under MICRA.

Attorney Fees

Business and Professions Code § 6146 limits contingency fees in medical malpractice actions.[43] Before the enactment of AB 35, the statute used a sliding-scale formula that reduced the percentage attorneys could recover

[39] CAL. CODE CIV. PROC. § 667.7 (West 2024); McCormick Barstow LLP, California Revisions to "MICRA" For Medical Malpractice Cases (June 13, 2022), https://www.mccormickbarstow.com/micra-revisions/.
[40] CAL. CODE CIV. PROC. § 667.7(b); McCormick Barstow LLP, supra note 1. Retrieved from: https://codes.findlaw.com/ca/code-of-civil-procedure/ccp-sect-667-7/
[41] https://codes.findlaw.com/ca/government-code/gov-sect-970-6/
[42] https://law.justia.com/codes/california/code-gov/title-1/division-3-6/part-5/chapter-3-7/section-984/
[43] CAL. BUS. & PROF. CODE § 6146 (applies only to medical malpractice); California Rules of Professional Conduct, Rule 1.5 (general reasonableness standard for all other cases). Retrieved from: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6146.&lawCode=BPC

as the size of the award increased. AB 35 amended § 6146 by replacing that structure with a stage-of-proceeding approach.[44] Under current law, contingency fees are generally capped at 25% of the recovery if the matter is resolved before a civil complaint or demand for arbitration is filed, and 33% of the recovery if the matter is resolved after a complaint or arbitration demand has been filed. If the case proceeds through trial or arbitration, the attorney may move for a contingency fee above the 33% limit, which the court or arbitrator may approve upon a showing of good cause.

Special rules govern attorneys' fees when the plaintiff is a minor or a person with a disability. Pursuant to California Rules of Court, Rule 7.955, when a personal injury action is brought on behalf of a minor or a person with a disability under Code of Civil Procedure section 372 or Probate Code sections 3600–3601, the court must apply a reasonable fee standard when approving and allowing the amount of attorney's fees payable from the recovery.[45] Unless the court has approved the fee agreement in advance, the reasonableness of the fee is evaluated based on the facts and circumstances existing at the time the representation agreement was made.

In determining a reasonable fee, the court may consider factors such as the amount of recovery, the results obtained, the novelty and difficulty of the issues, the time and labor required, the risk assumed by counsel, and the experience and ability of the attorney.

An attorney seeking approval of fees must submit a petition supported by sufficient information—typically through a declaration—to allow the court to evaluate the reasonableness of the requested fee. The determination is governed by statewide rules established by the Judicial Council, and trial courts may not apply local rules or practices that conflict with those standards.

In contrast, outside the medical malpractice and SAM/minors context, California imposes no statutory contingency fee caps for personal injury litigation, including government tort claims. Fee arrangements are governed by contract between attorney and client and are subject only to the requirement under Rule 1.5 of the California Rules of Professional Conduct that fees be "reasonable."[46]

In practice, contingency fee arrangements in personal injury cases commonly fall within the following ranges:[47]

[44] https://law.justia.com/codes/california/code-bpc/division-3/chapter-4/article-8-5/section-6146/?
[45] California Rules of Court, Rule 7.955. (2010). Attorney's fees for services to a minor or a person with a disability. Judicial Branch of California. https://courts.ca.gov/cms/rules/index/seven/rule7_955
[46] California Rules of Professional Conduct, Rule 1.5(a)-(b) (2018).
[47] Herbert M. Kritzer, Contingency Fee Lawyers as Gatekeepers in the Civil Justice System, 81 JUDICATURE 22, 23-24 (1997); Lester Brickman, Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-Competitive Fees, 81 WASH. U. L.Q. 653, 659-661 (2003).

- Approximately 33⅓% if resolved prior to filing suit.
- Approximately 40% if resolved after filing.
- Higher percentages in certain cases involving appeals or extended litigation.

These percentages typically apply to the gross recovery, with litigation costs deducted separately unless otherwise specified in the fee agreement.[48]

California law does not differentiate contingency fee structures based on:[49]

- Whether the defendant is a private party or a government entity.
- The type of tort alleged.
- The size of the recovery.
- The number of defendants.

Accordingly, flat-percentage fees apply uniformly across cases of varying size and complexity.

F. General Statutory Caps

Outside the medical malpractice context, California law generally does not impose statutory caps on compensatory damages. In most other tort cases—including automobile accidents, premises liability, and dangerous condition claims—damage awards are determined by a jury based on the evidence presented at trial.

Under Proposition 51 (1986), liability for damages is divided between defendants based on the type of damages awarded. Defendants remain jointly liable for economic damages, meaning a plaintiff may recover the full amount of economic losses from any liable defendant. In contrast, non-economic damages are allocated proportionally, with each defendant responsible only for the share corresponding to their percentage of fault.[26]

As a result, total damages in serious injury or wrongful death cases can reach several million dollars, depending on the severity of the injuries and the circumstances of the case. Economic damages reflect documented financial losses, while non-economic damages are determined by the jury and reviewed by the court after trial rather than being limited by statute. Because California law provides little formal guidance for valuing non-economic damages

[48] Kritzer, supra note 5, at 24.

[49] California Business and Professions Code § 6147 (2025). Retrieved from https://law.justia.com/codes/california/code-bpc/division-3/chapter-4/article-8-5/section-6147/

outside MICRA, award amounts may vary across cases, creating uncertainty for public entities assessing potential liability exposure.

G. Sexual Assault Claims

California has enacted a series of legislative changes over the past two decades that have progressively expanded the window for filing childhood sexual assault claims. These changes have materially affected liability exposure for both public and private institutions.[50]

Historically, childhood sexual abuse claims were subject to relatively short statutes of limitation. Over time, the Legislature extended filing deadlines in recognition of the delayed reporting that often accompanies such claims. Assembly Bill 218 (effective January 1, 2020) represented a significant expansion. It extended the statute of limitations to age 40 (or five years from discovery of psychological injury) and created a three-year "revival" window (2020–2022) during which previously time-barred claims could be filed regardless of when the alleged abuse occurred.

Assembly Bill 452 (effective January 1, 2024) further expanded exposure by eliminating the statute of limitations for new civil actions arising from childhood sexual assault occurring on or after January 1, 2024. For future incidents, claims are no longer subject to a time limit. This change removes the temporal boundary on potential liability for new cases and increases long-term uncertainty for affected entities. These statutory changes have led to a substantial increase in filings against school districts, counties, and other public entities.[51]

The scale of resulting liability has been significant. In several high-profile institutional cases, aggregate payouts have reached multibillion-dollar levels. For example, Los Angeles County officials have reported that settlements and payouts tied to sexual abuse claims made possible by AB 218—including a record-setting $4 billion settlement—have totaled nearly $5 billion and continue to grow.[52]

[50] The increase in SAM-related occurrences documented in this section reflects the effects of recent statutory changes governing childhood sexual assault claims. The discussion of broader tort reforms presented later in this report should not be interpreted as proposals specifically directed at this category of claims; rather, those reforms are evaluated in the context of overall public entity liability exposure across a broad range of claim types.

[51] https://calmatters.org/education/k-12-education/2025/07/child-sex-abuse-california/

[52] Rebecca Ellis, "County seeks change over sex abuse payouts," Los Angeles Times, accessed via eNewspaper, https://enewspaper.latimes.com/infinity/article_share.aspx?guid=8e3d17d9-ad77-456f-a9c7-c4bf950f8f0f

The fiscal implications of these claims are substantial and ongoing across California. According to the Fiscal Crisis and Management Assistance Team (FCMAT), claims brought under AB 218 alone are estimated to total between $2 billion and $3 billion for local educational agencies statewide, with total exposure across public entities expected to exceed that level. The report also emphasizes that the full magnitude of liability remains uncertain, as many claims are still in various stages of litigation and may take years to resolve. Final costs are not known until claims are adjudicated or settled. As a result, public agencies face prolonged fiscal pressure, with growing obligations that are both significant in scale and difficult to forecast. Importantly, these costs are not limited to agencies directly involved in claims, as liability exposure is often shared through risk pooling arrangements and rising insurance costs, placing broader pressure on public sector budgets across California.[53]

Part V. Proposed Solutions

The following section outlines potential policy changes that could help public entities manage liability exposure more predictably and sustainably.[54] Drawing on approaches used in other states, as well as elements of California's Medical Injury Compensation Reform Act (MICRA), these proposals focus on improving predictability, fiscal stability, and risk management.

These policy options are not without tradeoffs. While many states have adopted these reforms to improve predictability and moderate liability exposure, they may also change how responsibility for the costs of injuries and litigation is allocated among public entities, injured parties, insurers, and taxpayers.

The discussion below focuses on how each reform works, how similar approaches have been used elsewhere, and how they could affect public entity liability in California.

[53] Fiscal Crisis and Management Assistance Team. (2025, January 31). Childhood sexual assault: Fiscal implications for California public agencies. https://www.fcmat.org/PublicationsReports/child-sexual-assault-fiscal-implications-report.pdf

[54] Although sexual abuse and molestation (SAM) claims have been an important contributor to recent increases in liability exposure, particularly among educational entities, the reforms discussed in this section are not designed to address one category of claims alone. Rather, they are broader structural options that could affect the frequency, severity, or cost of public entity litigation across a wider range of claim types.

A. Shift from Comparative Negligence to Modified Comparative Negligence

States generally follow one of two approaches to allocating fault in tort cases: pure comparative negligence or modified comparative negligence.

1. California (along with New York and Florida) employs pure comparative negligence, under which a plaintiff may recover damages even if they are primarily at fault for the incident.[47] The plaintiff's recovery is reduced in proportion to their share of responsibility, but recovery is not barred regardless of fault percentage.
2. In contrast, approximately 33 states use modified comparative negligence,[55] whereby a plaintiff may not recover damages once their fault reaches a specified threshold. Two common variations are:[56, 57]
    a. The 51% bar rule, under which a plaintiff may not recover damages if they are found to be 51% or more at fault. States following this rule include Arkansas, Colorado, Georgia, Idaho, Kansas, Maine, North Dakota, Utah, Tennessee, Nebraska, and West Virginia.
    b. The 50% bar rule, under which recovery is barred if a plaintiff is 50% or more at fault. States following this rule include Connecticut, Delaware, Hawaii, Illinois, Indiana, Iowa, Minnesota, Montana, Nevada, New Hampshire, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Vermont, and Wisconsin.

Table 3a. Comparative Negligence Systems Across the United States

Pure Comparative Negligence	Modified Comparative Negligence
Plaintiff may recover damages regardless of fault percentage.	Recovery barred once plaintiff reaches a specified fault threshold.
Recovery is reduced by the plaintiff's share of fault.	Recovery is reduced by plaintiff's fault up to the threshold, then barred entirely.
Examples: California, New York, Florida.	Approximately 33 states.

[55] Justia. (2026). Comparative & contributory negligence laws: 50-state survey. Justia Personal Injury Law Center. https://www.justia.com/injury/negligence-theory/comparative-contributory-negligence-laws-50-state-survey/#california
[56] Restatement (Third) of Torts: Apportionment of Liability § 7 (2000).
[57] https://www.lawsuitlegal.com/injury-lawyer/comparative-negligence-by-state.php?

Table 3b. Illustrative Example: Plaintiff is 60% at Fault

System	Total Damages	Recovery Threshold	Amount Recovered
Pure Comparative Negligence.	$100,000	No fault threshold; recovery reduced by plaintiff's share of fault.	$40,000
Modified Comparative Negligence.	$100,000	Recovery barred once plaintiff reaches the applicable fault threshold (50% or 51%, depending on state).	$0

Assumes a plaintiff is found 60% at fault for an injury resulting in $100,000 in total damages. Under pure comparative negligence, damages are reduced in proportion to the plaintiff's share of fault. Under modified comparative negligence systems, recovery is barred once the plaintiff's fault reaches the applicable statutory threshold.

B. Dangerous Condition of Public Property Reforms

Several states apply a stricter standard when determining whether government entities are liable for injuries caused by conditions on public property. Instead of asking whether a condition created a "substantial risk" of injury, these states require proof that the condition created an "unreasonable risk of harm." This higher threshold can give government entities a stronger defense against claims involving ordinary infrastructure while still allowing recovery when a condition is genuinely dangerous.

1. **New York City — The "Pothole Law":** New York City provides an example of how a jurisdiction can restrict government premises liability through procedural mechanisms rather than by raising the substantive threshold for what constitutes a dangerous condition. The operative provision is New York City Administrative Code § 7-201(c)(2), commonly known as the Pothole Law, which generally bars liability for injuries arising from defects in streets, sidewalks, and similar infrastructure unless the City has received prior written notice of the specific condition.[58]

   As a result, failure to establish prior written notice will typically result in dismissal of the claim, regardless of how dangerous the condition was or how long it existed.[59] However, courts recognize limited

[58] Jesse Minc Personal Injury Law, NYC Pothole Law, Jesse Minc Personal Injury Law (2024), https://www.personalinjurylawyersbronx.com/public-transportation-accidents/pothole-law/

[59] Terri J. Frank, New York City's Pothole Law: In Need of Repair, 10 Fordham Urb. L.J. 323, 323–24 (1982)

exceptions, including where the City affirmatively created the defect through negligence or where the condition arises from a special use benefiting the City.

This is in sharp contrast to California's approach. Under California Government Code § 835, a public entity may be held liable for a dangerous condition of its property if it had actual or constructive notice of the condition in sufficient time to take protective measures. Constructive notice—the principle that a government entity is deemed aware of conditions it should reasonably have discovered through inspection—is a fully available basis for liability in California. In New York, constructive notice is insufficient to satisfy the Pothole Law's written notice requirement, and courts have consistently held that the absence of prior written notice will generally bar a plaintiff's claim.[60]

2. **Louisiana - Civil Code Articles 2317 and 2322:** In Louisiana, plaintiffs must show that a condition created an unreasonable risk of harm.[61] Courts apply a balancing test that considers several factors, including the likelihood and severity of injury, the usefulness of the condition, and the cost of preventing the risk.[62] Louisiana courts have dismissed claims involving common infrastructure features such as unmarked curbs, unpainted parking bumpers, and ordinary step-ups outside buildings when those conditions were found not to create an unreasonable safety hazard.[63]

   For example, in *Williams v. Liberty Mutual Fire Insurance Company*, a plaintiff tripped over a curb in a restaurant parking lot. The Louisiana court concluded that the curb was open and obvious and therefore did not create an unreasonable risk of harm.[64]

   In California, plaintiffs may have a greater opportunity to argue that similar conditions create a "substantial risk" of injury, which can make early dismissal less likely and require additional litigation before the case is resolved.

3. **Texas - Tort Claims Act:** Texas has a similar approach. Plaintiffs bringing premises liability claims against government entities must show that a condition posed an unreasonable risk of harm.[65] Courts examine whether the government entity knew or should have known (actual or constructive knowledge) about the

[60] *Amabile v. City of Buffalo*, 93 N.Y.2d 471, 474–75, 715 N.E.2d 104 (1999)
[61] La. Civ. Code art. 2317, 2322.
[62] https://www.casemine.com/commentary/us/louisiana-supreme-court-clarifies-'unreasonable-risk-of-harm'-standard-in-premises-liability-cases/view
[63] Menou, S. D. (2023, May 3). Louisiana Supreme Court clarifies analysis for open & obvious conditions. Keogh Cox. https://keoghcox.com/louisiana-supreme-court-clarifies-analysis-for-open-obvious-conditions/
[64] Williams v. Liberty Mut. Fire Ins. Co., 217 So.3d 421 (La. Ct. App. 1st Cir. 2017).
[65] Tex. Civ. Prac. & Rem. Code § 101.021

condition and whether it created an unreasonable safety hazard.[66] Relevant factors may include reports of prior incidents, reports of potentially dangerous conditions, and whether reasonable inspections would have revealed the hazard.

For example, in *University of Texas–Pan American v. Aguilar*, a student tripped on a water hose lying across a campus sidewalk.[66] The Texas Supreme Court dismissed the claim, finding that the university did not have actual knowledge that the hose posed an unreasonable risk of harm. The court concluded that a safety manual warning about electrical cords in office walkways was insufficient to show that the university should have recognized an outdoor hose as a dangerous condition.

Under California's current "substantial risk" standard, plaintiffs may have a greater opportunity to argue that a similar condition presents a tripping hazard that should be evaluated by a jury rather than dismissed early in the case.

Potential Reform to California Law: California could amend Government Code § 830(a) to adopt a definition of dangerous condition that uses the "unreasonable risk of harm" standard. A revised definition might read:

"A condition of property that creates an unreasonable risk of harm when the property or adjacent property is used with due care in a reasonably foreseeable manner. A condition is unreasonably dangerous when the likelihood and severity of harm outweigh the burden of preventing the harm and the usefulness of the condition to the public entity and the public."

Operational Benefits: Adopting this definition could bring several practical benefits:

- Allow courts to resolve more cases earlier when the condition involves ordinary infrastructure features.
- Reduce litigation costs by limiting claims based on minimal or inherent risks.
- Preserve legal remedies for injuries caused by genuinely dangerous conditions.
    - Conditions such as large potholes, missing guardrails, structurally unsafe bridges, or other clearly hazardous infrastructure would still satisfy the standard and could result in liability.
    - Instead, the reform would mainly affect marginal cases involving everyday infrastructure features that present only minimal risks commonly encountered in public spaces.

[66] University of Texas-Pan Am. v. Aguilar, 251 S.W.3d 511, 513-14 (Tex. 2008).

C. Joint and Several Liability Reforms

Table 4a. Approaches to Joint and Several Liability

Liability System	Defendant Liability	Example States
Traditional Joint and Several Liability.	Any defendant may be required to pay the full judgment regardless of fault share.	Delaware, Maryland, North Carolina, Rhode Island, Virginia.
Modified Joint and Several Liability (Damage Type)	Joint liability applies only to certain damages (typically economic damages).	California, Nebraska.
Modified Joint and Several Liability (Fault Threshold)	Joint liability applies only when a defendant exceeds a specified fault threshold.	Illinois, Iowa, Ohio, New Jersey.
Pure Several Liability (Proportionate Liability)	Each defendant pays only their share of fault for all damages.	Alaska, Arizona, Kansas, Utah, Wyoming.

Table 4b. Liability Exposure Under Alternative Liability Systems

Scenario: Total damages = $1,000,000

Defendant's Share of Fault	Traditional Joint and Several	50% Threshold System	Pure Several Liability
10% at fault	Up to $1,000,000	$100,000	$100,000
40% at fault	Up to $1,000,000	$400,000	$400,000
60% at fault	Up to $1,000,000	Up to $1,000,000	$600,000

Illustrative example assuming other defendants are unable to satisfy their share of the judgment.

California's joint and several liability rules for government tort cases expose minimally culpable government entities to disproportionate financial liability when co-defendants are judgment-proof. This section discusses how other states operate with joint and several liability statutes and, drawing on successful state models, proposes a 50% fault threshold for joint and several liability in government tort cases.

Alternative State Approaches to Joint and Several Liability

States have adopted several different approaches to allocating liability among multiple defendants. These approaches balance the risk of co-defendant insolvency differently between plaintiffs and defendants.

i. Joint and Several Liability for All Types of Damages

A small number of states maintain the traditional rule under which each defendant can be required to pay the entire judgment if necessary to ensure that the plaintiff is fully compensated. States that continue to follow this approach include Delaware, Maryland, North Carolina, Rhode Island, and Virginia.[67] Under this system, defendants may later seek contributions from co-defendants, but the plaintiff is protected from the risk that another responsible party cannot pay.

California followed this traditional rule until the passage of Proposition 51 in 1986. Proposition 51 retained joint and several liability for economic damages but replaced it with several liability for non-economic damages, meaning that each defendant is responsible only for the portion of non-economic damages corresponding to their percentage of fault.

ii. Proportionate Liability (or Pure Several Liability for All Types of Damages)

This has been adopted by multiple states, including Alaska, Arizona, Kansas, Utah, and Wyoming, completely abolishing joint and several liability so that each defendant is liable only for their proportionate share of all damages, regardless of other defendants' ability to pay or the type of damages claimed.[67]

iii. Modified Joint and Several Liability: Split by Damage Type

Several states have adopted modified systems that distinguish between economic and non-economic damages, or that impose other categorical limitations on joint and several liability. These approaches vary significantly by state. Notable examples include:

- California and Nebraska: Joint and several liability for economic damages (medical expenses, lost wages, property damage), but several liability only for non-economic damages (pain and suffering, emotional distress), with Nebraska having an additional caveat of joint and several liability when defendants are acting in concert.[67]

[67] Matthiesen, Wickert & Lehrer, S.C. (2022). Joint and several liability and contribution laws chart. https://www.mwl-law.com/wp-content/uploads/2018/02/JOINT-AND-SEVERAL-LIABILITY-AND-CONTRIBUTION-LAWS-CHART.pdf

- Oregon: Several liability for both damage types, except for environmental torts, with reallocation provisions if part of a judgment is uncollectible. [67]

The following modified approaches share a common feature: they limit joint and several liability through categorical rules based on damage type, plaintiff fault, or specific conduct (acting in concert, environmental torts) rather than using fault percentage thresholds.

iv. Modified Joint and Several Liability: Fault Threshold Systems

Under these systems, defendants exceeding the specified fault threshold remain jointly and severally liable (typically for economic damages or all damages), while defendants below the threshold are severally liable only for their proportionate share. A few states and their corresponding thresholds are:

- Illinois: Joint and several liability, except when a defendant is less than 25% liable, which leads to joint and several liability for medical and related expenses, but several liability for plaintiff's other damages.[67]
- Iowa and Ohio: Joint and several liability only for defendants 50% or more at fault and for plaintiff's economic damages only. [67]
- New Jersey: Several liability for defendants less than 60% at fault, otherwise defendants will be held jointly and severally liable. [67]
- Washington: Joint and several liability where plaintiff is not at fault (defendants are 100% at fault). Also, cases of vicarious liability, and where defendants act in concert—otherwise several liability. [67]

This threshold approach creates graduated liability and protects minimally culpable defendants from "deep pocket" liability, while ensuring that defendants bearing majority or substantial responsibility remain fully accountable.

Proposed Solution: Adopt 50% Fault Threshold System

California could amend the Government Code to establish a 50% fault threshold for joint and several liability in government tort cases, following the model successfully implemented in Iowa and Ohio. Under this reform, government entities exceeding 50% fault would remain jointly and severally liable for economic damages (consistent with current Proposition 51), while government entities at 50% or less fault would be severally liable

only for both economic and non-economic damages in proportion to their percentage of fault. This threshold would protect government entities from "deep pocket" liability when they are not majority contributors (at or below 50% fault) alongside judgment-proof defendants, aligning liability more closely with actual culpability while maintaining plaintiff protection in cases where government entities bear majority responsibility.

The 50% threshold represents the most common approach among states that have adopted modified joint and several liability systems, establishing a clear bright-line rule: defendants who are more responsible than all other parties combined remain jointly liable, while those who are less responsible than other parties combined are protected from disproportionate liability.

Proposed Solution: Proportionate Liability (or Pure Several Liability for All Damage Types)

A more comprehensive alternative to the 50% fault threshold would be to adopt pure several liability for government entities across all damage categories, both economic and non-economic. At least fourteen states have adopted pure several liability as their governing rule, among them Arizona, Alaska, Kansas, Utah, and Wyoming, to name a few. This approach represents the most direct way to ensure that a government entity's financial exposure is always proportionate to its actual share of fault, regardless of the financial status of co-defendants.[67]

In practice, this means each defendant pays only for the portion of damages they are responsible for, and separate judgments are entered for each party. If another defendant cannot pay, that risk falls on the plaintiff rather than on a government entity with limited fault. This reflects a straightforward principle: a party should not have to pay for harm it did not cause.

D. Collateral Source Rule Reforms

States vary considerably in how they treat payments received by plaintiffs from collateral sources such as private insurance. Broadly, state approaches fall into three categories:

1. Full evidentiary admissibility, where juries may consider collateral payments directly.
   Post-verdict reduction systems, where collateral evidence is excluded at trial, but awards are reduced afterward.
2. "Paid vs. billed" approaches, which limit recovery to amounts actually paid or incurred.

These differing approaches can materially affect total recoveries in personal injury litigation.

1. Full Evidentiary Admissibility

Some states permit defendants to introduce evidence of insurance payments directly to the jury.

- **Alabama** allows evidence that medical expenses "have been or will be paid or reimbursed," while permitting plaintiffs to present evidence of premiums paid (Ala. Code § 12-21-45).
- **Alaska** permits the introduction of both billed and paid amounts into evidence. In medical malpractice cases, recovery is limited to amounts actually paid by collateral sources (Alaska Stat. §§ 9.17.070, 9.55.548).

These systems allow juries to evaluate the full financial context of medical expenses when determining damages.

Table 5a. Treatment of Collateral Source Payments

Approach	Jury Sees Insurance Payments?	Effect on Recovery	Example States
Traditional Collateral Source Rule	No	No reduction	California (generally)
Full Evidentiary Admissibility	Yes	Jury may consider collateral payments when determining damages	Alabama, Alaska
Post-Verdict Reduction	No	Court reduces award after verdict	Colorado, Connecticut, Florida, Minnesota
Paid vs. Billed	Usually No	Recovery limited to amounts actually paid/incurred	Kansas, Missouri, North Carolina, Texas, California (for medical expenses)

Table 5b. Illustrative Medical Bill Example

Item	Amount
Hospital Charges	$100,000
Amount Paid by Insurer	$30,000
Negotiated Write-Off	$70,000

Approach	Recoverable Medical Expenses
Traditional Collateral Source Rule	$100,000
California / Paid vs. Billed	$30,000
Post-Verdict Reduction	$100,000 at trial → reduced after verdict
Full Evidentiary Admissibility	Jury considers both $100,000 billed and $30,000 paid

Note: Potential difference in recoverable medical expenses: up to $70,000 in this illustrative example.

2. Post-Verdict Reduction Systems

Other states maintain the traditional evidentiary rule excluding collateral source evidence at trial, but require judicial reductions after verdict.

- Colorado (C.R.S. § 13-21-111.6) requires post-verdict reduction but includes a "contract exception" that excludes many private insurance payments and employment benefits from offset.
- Connecticut (Conn. Gen. Stat. § 52-225) reduces awards by collateral benefits while crediting plaintiffs for premiums paid.
- Florida (Fla. Stat. § 768.76) requires reductions for collateral sources without subrogation rights and offsets reductions by plaintiff contributions.
- Minnesota (Minn. Stat. § 548.251) treats both amounts actually paid and certain negotiated write-offs as collateral sources subject to reduction.

In *Swanson v. Brewster*, a jury awarded $134,789.30 in total damages, including $62,259.30 for past medical expenses (the full billed amount).[68] The plaintiff's insurer had actually paid $17,643.76, and $44,615.54 reflected negotiated write-offs. Under Minnesota's collateral source statute (Minn. Stat. § 548.251), both the amounts paid and certain negotiated discounts were treated as collateral sources subject to post-verdict reduction, offset by two years of insurance premiums ($4,570.64). The court therefore reduced the medical expense award by approximately $57,689. As a result, the plaintiff's recovery for past medical expenses was limited largely to the net amount paid, rather than the full billed amount presented to the jury.

3. "Paid vs. Billed" Evidence Approaches

A third group of states limits recovery for medical expenses to amounts actually paid or incurred rather than the higher billed amounts. The key difference is that California applies this limitation specifically to medical expense damages, while otherwise maintaining the traditional collateral source rule.

Kansas permits the introduction of both total bills and amounts accepted as satisfaction to assist juries in determining reasonable value (Martinez v. Milburn Enterprises, 233 P.3d 205).

- Missouri creates a rebuttable presumption that the value of medical treatment equals the amount paid (Mo. Rev. Stat. § 490.715).
- North Carolina limits recovery to amounts actually paid or required to be paid (N.C. Gen. Stat. § 8.58-1).
- Texas similarly restricts recovery to amounts "actually paid or incurred" and excludes evidence of insurance to the jury (Tex. Civ. Prac. & Rem. Code § 41.0105).

These systems focus the damages inquiry on the economic value of medical services as reflected by actual payment rather than billed charges.

E. MICRA-Inspired Reforms

MICRA provides an example of structured liability management within a specific tort category. MICRA includes provisions governing periodic payments and contingency fee caps that do not apply broadly to government tort claims.

[68] Swanson v. Brewster, 784 N.W.2d 264, 267 (Minn. 2010).

Periodic Payment of Large Awards

The California Supreme Court upheld the constitutionality of mandatory periodic payments in medical malpractice cases in *American Bank & Trust Co. v. Community Hospital*, 36 Cal. 3d 359 (1984), finding that requiring periodic payments serves legitimate state interests in protecting plaintiffs from mismanaging large awards while reducing defendants' immediate financial burden through present value discounting.[69]

California law provides limited mechanisms through which periodic or installment payment arrangements may arise in government tort cases, each subject to significant restrictions that limit their practical use.

- Installment payments upon showing of unreasonable hardship (Gov. Code § 970.6): Under Government Code § 970.6, a local public entity may seek to pay a judgment in installments over a period not exceeding 10 years (in equal annual installments), but only upon a showing of unreasonable hardship. This requires both a formal determination by the entity's governing body and approval by the court following a hearing.[70]

  One practical challenge is that the statute does not clearly define what constitutes an "unreasonable hardship." As a result, public entities may face uncertainty regarding whether impacts such as reserve depletion, service reductions, or program cuts would be sufficient to justify installment payments. The requirement for court approval can create additional uncertainty over whether a public entity's determination of hardship will ultimately be accepted. In addition, installment payments remain subject to judgment interest, which may reduce the fiscal benefits of spreading payments over time.
- Election of periodic payments for large judgments (Gov. Code § 984): Separately, under Government Code § 984, a public entity may elect to pay certain large tort judgments through periodic payments. The statute applies to qualifying judgments that exceed a statutory threshold and are not covered by traditional insurance.[71,72] For purposes of the statute, "not insured" is defined broadly to include self-insurance, joint powers authorities, insurance pooling arrangements, and similar risk-sharing mechanisms. Unlike § 970.6, this provision does not require a showing of hardship. However, the public entity must pay 50 percent of the eligible judgment amount immediately, while the remaining balance

[69] American Bank & Trust Co. v. Community Hospital, 36 Cal.3d 359, 371-73 (1984); Kennedy's Law LLP, supra note 2.
[70] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=970.6.
[71] Based on the statutory increase from $725,000 in 1996, with annual adjustments of 5%, the threshold would be approximately $3.1 million in 2026.
[72] (a) As used in this section, "not insured" includes a public entity that has no liability insurance or is self-insured by itself, or through an insurance pooling arrangement, a joint powers agreement, the Local Agency Self Insurance Authority, or any other similar arrangement.

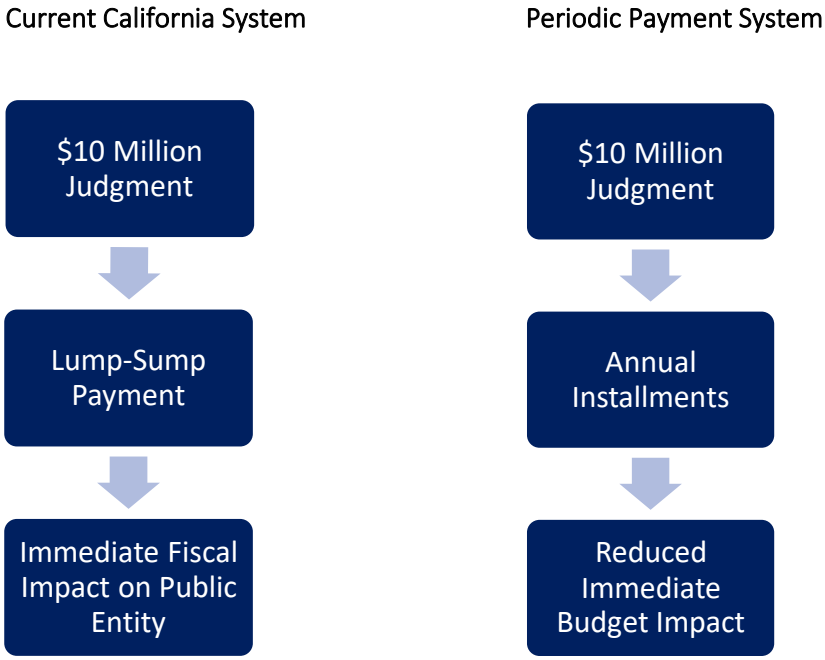
may be paid over a court-approved period not exceeding 10 years. Interest on the unpaid balance is tied to one-year U.S. Treasury bill rates and adjusted annually.

California's current periodic payment mechanisms are constrained in practice by several factors. The § 970.6 process requires a showing of unreasonable hardship and court approval, while the meaning of "unreasonable hardship" remains subject to interpretation. Both § 970.6 and § 984 allow interest to accrue during the payment period, which may reduce the fiscal benefits of deferring payment. In addition, § 984 requires that 50% of the eligible judgment amount be paid immediately, limiting the amount that may be deferred.

Table 6. Existing California Mechanisms

Mechanism	Requirement	Key Limitation
Gov. Code § 970.6	Court-approved showing of unreasonable hardship	Difficult to qualify. Requires hardship finding and court approval
Gov. Code § 984	Election for certain large uninsured judgments	Only 50% of eligible judgment may be deferred. Interest accrues on unpaid balance

Figure 28. Alternative Approaches to Paying Large Government Tort Judgments



If policymakers wish to expand the practical use of periodic payment mechanisms, potential areas for consideration include:

1. Clarifying the standards governing findings of unreasonable hardship.
2. The portion of a judgment eligible for deferral.
3. The treatment of interest during the payment period.[73]

Any such changes would require balancing the fiscal benefits of deferred payments against the role that interest plays in compensating for delayed payment.

Structured Contingency Fee Caps

Business and Professions Code § 6146 limits contingency fees in medical malpractice cases to 25% for pre-filing settlements and 33% for post-filing recoveries (subject to statutory provisions).[49] Outside the medical malpractice context, California imposes no statutory contingency fee caps in general personal injury litigation, including government tort claims. In practice, contingency fee arrangements commonly fall within the 33⅓% to 40% range, though specific agreements vary.[74]

Structured fee arrangements address a scale issue embedded in flat-percentage contingency models. Under a standard 33⅓% arrangement, a plaintiff recovering $50,000 pays the same percentage rate as a plaintiff recovering $5,000,000. Because contingency fees are calculated as a fixed share of the recovery, total attorney compensation rises proportionally with award size, even when case complexity or litigation effort may not increase at the same rate. Sliding scale or capped structures, such as those used under MICRA, represent one approach to introducing greater proportionality in large recoveries.

Similar fee-limitation proposals have emerged outside the medical malpractice context. For example:

- A California ballot initiative titled the Protecting Automobile Accident Victims from Attorney Self-Dealing Act of 2026 proposes capping contingency fees at 25% in certain automobile accident cases, reflecting broader debate over fee structures in tort litigation. [75]

[73] Examples discussed by practitioners include limiting the applicable interest rate, capping the number of years for which interest may accrue, or applying a reduced interest rate after a specified period.
[74] See Ketchum v. Moses, 24 Cal.4th 1122, 1132 (2001) (noting standard contingency fee arrangements in the range of one-third to forty percent).
[75] Uber Pushes Ballot Measure to Cap Lawyer Fees in Car Crash Cases, KFI AM 640 (Jan. 18, 2026)

Table 7. Illustrative Effect of Contingency Fee Structures

Plaintiff Recovery	Attorney Fee (33⅓%)	Attorney Fee (25%)	Difference
$50,000	$16,667	$12,500	$4,167
$500,000	$166,667	$125,000	$41,667
$5,000,000	$1,666,667	$1,250,000	$416,667

Note: Illustrative example showing attorney compensation under alternative contingency fee structures.

F. Structured Damage Caps

Damage caps are one mechanism used in many states to limit exposure in tort claims against government entities.[76]

> "Some states, such as Arkansas and California, have no damage caps. At least 33 states' Acts limit, or "cap," the monetary amount for damages that may be recovered from judgments against the state, and at least 29 states (often in combination with a cap) prohibit a judgment against the state from including punitive or exemplary damages." [77]

These statutory limits are often structured by government level (state versus local), claim type (bodily injury versus property damage), and per-person versus per-occurrence limits. Some states incorporate periodic inflation adjustments to preserve the real value of compensation.

Caps may contribute to predictability in several ways: creating predictability for insurance pricing by establishing clear maximum exposure amounts, capping potential losses regardless of jury verdicts, reducing settlement pressure since defendants know their maximum financial exposure, and stabilizing insurance markets by allowing actuaries to price risk more accurately.[78]

[76] National Conference of State Legislatures (NCSL), Sovereign Immunity and Tort Claims Acts: 50-State Survey.
[77] Matthiesen, Wickert & Lehrer, S.C. (2022). State Sovereign Immunity and Tort Liability in All 50 States. Retrieved from https://www.mwl-law.com/suing-the-king-state-sovereign-immunity-and-tort-liability-in-all-50-states/
[78] Texans for Lawsuit Reform Foundation. (2023). Damage Caps Across the United States. Retrieved from https://tlrfoundation.org/foundation_papers/damage-caps-across-the-united-states/

Texas provides one example of a capped liability structure. Under the Texas Tort Claims Act (Tex. Civ. Prac. & Rem. Code Ch. 101), the State of Texas and municipalities are subject to a $250,000 per-person limit and a $500,000 per-occurrence cap for bodily injury or death claims. Other local government units, such as counties and special districts, are subject to lower limits of $100,000 per person and $300,000 per occurrence. Property damage claims are capped at $100,000 per occurrence across all government levels. These caps apply to compensatory damages, including both economic damages (such as medical expenses and lost wages) and non-economic damages (such as pain and suffering), creating a statutory ceiling on recovery regardless of injury severity.[78,79,80]

Table 8. Common Damage Cap Structures Across States

Structure	Example
Per-person / per-occurrence caps	Texas,[81] Florida,[82] Nebraska[83]
Different caps by government level	Texas, Oregon[84]
Different caps by claim type (bodily injury vs property damage)	Texas
Automatic inflation adjustment	Colorado,[85] Oregon
Legislative override mechanisms	Florida[86]
No caps	California, Arkansas

[79] WTW. (2025). Understanding Tort Caps and Insurance for Government Entities. Retrieved from https://www.wtwco.com/en-us/insights/2025/03/understanding-tort-caps-and-insurance-for-government-entities

[80] Texas Civil Practice & Remedies Code § 101.023 (Damages Cap Provisions).

[81] https://statutes.capitol.texas.gov/?tab=1&code=CP&chapter=CP.101&artSec=

[82] https://www.flsenate.gov/Committees/BillSummaries/2026/html/145

[83] https://nebraskalegislature.gov/laws/statutes.php?statute=13-926

[84] https://www.courts.oregon.gov/Documents/Web-Notice-Proposed-Annual-Adjustments-to-Various-Limits-and-Amounts-based-on-CPI_26eRT006jm.pdf?

[85] https://colorado.public.law/statutes/crs_13-21-203.7?

[86] https://www.flsenate.gov/PublishedContent/Reference/Publications/leg-claim-manual.pdf

Table 9. Summary of Potential Reform Options for Government Tort Liability

Reform Area	Current California Approach	Potential Reform	Intended Effect
Comparative Negligence	Pure comparative negligence	Modified comparative negligence (50% or 51% bar)	Limit recovery where plaintiffs are primarily responsible for their injuries
Dangerous Condition Standard	"Substantial risk" standard	"Unreasonable risk of harm" standard	Reduce liability for ordinary infrastructure conditions, while preserving claims for genuinely hazardous conditions
Joint and Several Liability	Joint liability for economic damages regardless of fault share	50% fault threshold or proportionate liability (pure several liability)	Align financial responsibility more closely with actual fault
Collateral Source Rule	Limited offsets; traditional collateral source protections largely remain	Expanded offsets, post-verdict reductions, or paid-versus-billed approaches	Reduce recoveries that exceed actual economic losses
Periodic Payments	Limited use under Gov. Code §§ 970.6 and 984	Expand eligibility for installment payments	Reduce immediate fiscal impact of large judgments
Contingency Fee Structures	No statutory caps in most tort cases	MICRA-style fee caps or sliding-scale fees	Increase plaintiff share of large recoveries
Damage Caps	No general governmental damage caps	Structured caps by claim type, government level, or occurrence	Increase predictability of liability exposure and budgeting

For California public entities, damage caps could provide greater certainty regarding potential liability exposure and improve the predictability of budgeting, reserve requirements, and insurance costs. By establishing clear limits on recovery, while still permitting compensation for injured parties, such systems may reduce volatility associated with large verdicts and help public entities better manage long-term fiscal risk.

Part VI. Spotlight Cases

The preceding sections of this report document the growth in public entity liability exposure in California and review the legal doctrines that shape that exposure, including the state's dangerous condition doctrine, pure comparative negligence system, joint and several liability framework, collateral source rule, and uncapped damages environment.

The following case studies present illustrative examples of particularly egregious and high-severity liability exposures. While these cases are not intended to represent the typical public entity liability claim or average outcome, they provide useful context for understanding how California's legal environment can interact with specific factual circumstances to generate outsized fiscal impacts.

Indeed, as discussed earlier in this report, occurrences exceeding $1 million represent less than 1 percent of all occurrences but account for a disproportionate and increasing share of total liability dollars. Accordingly, understanding the circumstances that give rise to these particularly severe liability exposures provides important context for the broader trends documented throughout this report.

In many instances, cities, counties, and joint powers authorities may face substantial financial exposure even when they are not the primary cause of an incident, including cases involving third-party misconduct, catastrophic injuries, roadway and sidewalk conditions, or evolving legal theories that extend liability to adjacent or contiguous public property. Collectively, these case studies illustrate how California's legal environment can interact with specific factual circumstances to produce significant liability exposure for public agencies.

A. Sidewalk and Roadway Maintenance Exposure

1. Payman Heravi v. City of Los Angeles[87] illustrates how California's pure comparative negligence rule can still result in substantial public liability exposure even where a plaintiff is found partially responsible for an incident. In that case, while reportedly looking at his cellphone, the plaintiff tripped on a sidewalk uplift

[87] https://juryverdictalert.com/recent-verdicts/plaintiff-trips-on-uplifted-sidewalk-while-he-is-looking-at-his-cell-phone-6m-los-angeles-county?

allegedly caused by tree roots maintained by the City, resulting in a gross jury award exceeding $6 million. Although the jury ultimately assigned 50% comparative fault to the plaintiff, the City was still liable for approximately half of the damages based on allegations that it failed to address a longstanding sidewalk defect.

2. Gurrola v. City of Whittier[88] similarly demonstrates the growing exposure associated with sidewalk defect litigation involving traumatic brain injuries and long-term impairment claims. The case arose after a pedestrian tripped on a sidewalk uplift allegedly caused by tree roots and suffered a traumatic brain injury. Following a unanimous jury liability finding against the City, the matter ultimately resolved in a $7.5 million settlement on damages. The case shows how relatively modest infrastructure defects can generate substantial public liability exposure when they result in long-term neurological injuries, ongoing care needs, and significant future economic and non-economic damages.
3. Vallin v. City of Long Beach[89] further demonstrates the increasing severity of roadway maintenance litigation involving chronic pain and long-term impairment claims. A jury awarded approximately $17.5 million after a plaintiff fractured her ankle in a pothole and later developed Complex Regional Pain Syndrome (CRPS), with evidence presented that City employees had repeatedly observed the roadway condition over an extended period without repair. The case illustrates how dangerous condition claims involving chronic pain and future pain-and-suffering damages can generate significant public liability exposure, particularly when long-term impacts are difficult to quantify.

B. Third-Party Conduct and Joint & Several Liability Exposure

4. Cordova v. City of Los Angeles[90] is a significant California Supreme Court decision clarifying that public entities may still face dangerous condition liability even where negligent third-party actions contribute to an accident. The Court held that a roadway condition may constitute a dangerous condition of public property when it creates a foreseeable risk that negligent driving could result in severe harm. The ruling

[88] https://davisvanguard.org/2025/10/city-whittier-negligence-sidewalk/
[89] https://www.dailyjournal.com/article/380460-la-jury-awards-18m-to-woman-who-broke-ankle-in-long-beach-pothole?
[90] https://law.justia.com/cases/california/supreme-court/2015/s208130.html?

reinforced the scope of public entity exposure in roadway design and traffic safety litigation involving dangerous condition claims.

5. Vinolo v. City of San Diego[91] demonstrates how the dangerous condition liability framework reaffirmed in *Cordova* may translate into substantial public liability exposure in practice. In this case, a cyclist was paralyzed after being struck by an intoxicated driver, but the plaintiffs successfully argued that roadway conditions (including obstructed sightlines and overgrown vegetation) contributed to the severity of the crash. Although the intoxicated driver bore most of the fault, the City ultimately agreed to a nearly $24 million settlement after a jury assigned partial liability to the municipality. The case illustrates how public entities may face significant exposure in catastrophic injury cases if roadway conditions are determined to have contributed to an accident, even where another party's conduct was the primary precipitating factor.

6. Daquan Jones v. Hiller Aircraft Corporation and City of Firebaugh[92] further demonstrates how California public entities may face liability exposure where dangerous roadway conditions are alleged to have contributed to injuries primarily caused by third-party conduct. The case arose after a truck driver unknowingly drove down an abandoned city roadway allegedly configured to divert motorists onto private property. A confrontation followed, culminating in catastrophic injuries when the plaintiff was run over by a moving truck. Although the jury assigned the majority of fault to private parties, the City of Firebaugh was still found partially liable based on allegations that it failed to address known hazardous roadway conditions. The jury ultimately returned a gross verdict of approximately $9.3 million, illustrating how public entities may still face substantial exposure when roadway conditions are found to have contributed to a chain of events leading to injury.

7. Blackburn v. Hesperia further illustrates the exposure created by California's dangerous condition and joint and several liability rules. In this case, an uninsured and inexperienced driver allegedly ran a red light while sleep-deprived and potentially under the influence of marijuana, causing a collision that left a 22-year-old plaintiff permanently disabled and requiring lifelong full-time care. Plaintiffs alleged that the

[91] https://www.latimes.com/california/story/2021-11-16/cyclist-gets-24-million-payout-after-paralyzing-crash-in-san-diego?
[92] https://www.fresnobee.com/news/local/article251196179.html

intersection constituted a dangerous condition of public property because it lacked speed limit signage and the yellow-light interval allegedly fell below applicable standards. The plaintiff suffered a traumatic brain injury and other severe injuries and was projected to require approximately 23 years of future care, with estimated future economic damages ranging from approximately $9.6 million to $16.9 million. Although the City argued that the other driver's conduct was the primary cause of the collision, the case ultimately settled for approximately $12.5 million after the City determined that, under California's joint and several liability rules, even minimal fault allocation could expose the municipality to the full amount of the plaintiff's economic damages and future life-care costs.

8. **Bautista v. City of Chino Hills**[93] illustrates how California's joint and several liability rule may create substantial public entity exposure in catastrophic injury cases involving underinsured third parties. The case arose after a pedestrian was struck by a distracted driver while crossing in a marked crosswalk, resulting in catastrophic injuries and permanent paralysis. Plaintiffs alleged that the City failed to implement additional traffic control measures at the crossing, while the driver carried only a $100,000 automobile insurance policy and reportedly possessed limited additional assets. Plaintiffs asserted approximately $23.6 million in economic damages. The matter ultimately resolved through a $10 million settlement with the City. The case also shows how the joint and several liability rule may create substantial financial exposure for public entities in catastrophic injury cases involving underinsured drivers. Once plaintiffs alleged that a dangerous condition of public property contributed to the incident, the City faced potential exposure to economic damages far exceeding the driver's available insurance coverage.

9. **Barrios v. City of Commerce**[94] further demonstrates the potential exposure created by joint and several liability in cases involving catastrophic injuries and underinsured motorists. The case arose after a collision that resulted in a permanent traumatic brain injury. Plaintiffs alleged that parked vehicles along the roadway limited visibility and contributed to the crash. The driver of the other vehicle and their employer ultimately contributed only the $1 million available under their insurance policy. Plaintiffs reportedly alleged approximately $35 million in economic damages and sought total damages exceeding $50 million.

[93] https://trellis.law/doc/237609929/reply-filed-electronically-defendant-city-chino-hills-response-to-plaintiff-s-objections-to-defendant-s-evidence-submitted-in-support-motion-for-summary-adjudication

[94] https://rulings.law/rulings/judge-joseph-lipner/20stcv40677-2023-10-19.html

The matter was resolved through an $18 million settlement with the City. The case illustrates how public entities may face significant financial exposure where alleged roadway conditions are claimed to have contributed to an accident involving catastrophic injuries and substantial future economic losses.

C. Catastrophic Injury and Wrongful Death Exposure

10. The Estate of Kevin Walsh v. California Department of Transportation[95] illustrates how comparative fault and uncapped non-economic damages can generate substantial public liability exposure in catastrophic roadway maintenance cases. The case involved allegations that Caltrans failed to timely repair a previously damaged crash cushion, contributing to a fatal freeway collision. Despite evidence of driver intoxication and adverse weather conditions, the jury awarded more than $21 million in damages, including substantial non-economic damages.

11. Stephen De La Cruz v. Town of Apple Valley[96] represents one of the largest dangerous condition of public property verdicts in California history. The case involved a 14-year-old student who was killed while crossing a roadway near his school, with plaintiffs alleging that the town had removed school zone signage and failed to implement additional speed reduction measures despite prior incidents at the same intersection. The jury returned a $60 million verdict and assigned no comparative fault to the decedent. The case highlights the substantial liability exposure associated with roadway design and traffic control decisions involving pedestrian safety, particularly in catastrophic wrongful death cases involving uncapped economic and non-economic damages.

12. Mojarro et al. v. City of Whittier[97] demonstrates the scale of exposure associated with mass casualty incidents involving public property conditions. The case arose after a large eucalyptus tree collapsed onto a wedding party in a public park, resulting in one death and multiple severe injuries. Plaintiffs alleged that the City and its arborist contractor failed to properly manage and inspect the tree despite foreseeable risks. The matter ultimately resulted in a $28 million settlement involving numerous plaintiffs and multiple

[95] https://topverdict.com/lists/2021/united-states/top-50-wrongful-death-verdicts
[96] https://dailyjournal.com/articles/354308-60-million-wrongful-death-verdict-in-san-bernardino
[97] https://www.whittierdailynews.com/2020/10/23/judge-oks-28-million-settlement-in-whittier-tree-lawsuit-case-san-pedro-woman-was-killed/

defendants. The case highlights how California's dangerous condition of public property rule may expose public entities to substantial aggregate liability where a single foreseeable property condition results in injuries to multiple individuals.

D. Expanding Legal Theories of Public Liability

13. Bonanno v. Central Contra Costa Transit Authority[98] is a significant California Supreme Court decision interpreting the scope of dangerous condition of public property liability under California Government Code §§ 830 and 835. The case arose after a pedestrian was struck by a vehicle while crossing a busy roadway to reach a bus stop, allegedly placed in an unsafe location by the transit authority. The Court held that a public entity may still face liability where the location or design of public property creates a foreseeable risk of harm to users attempting to access it, even if the injury occurs on adjacent property not directly owned or controlled by the entity. The ruling reinforced the broad scope of dangerous condition liability in California, particularly in cases involving transportation infrastructure and pedestrian access risks.

14. Sitchler v. Coachella: A separate roadway liability matter demonstrates the expanding scope of dangerous condition liability involving adjacent or contiguous public property. The case arose after an intoxicated semi-truck driver allegedly ran a red light in 2021 and collided with a vehicle carrying a driver and passenger, both of whom died at the scene. Although the State of California exclusively designed and maintained the intersection where the collision occurred, plaintiffs alleged that nearby conditions—including sight obstructions, roadway geometry, and vegetation—contributed to the crash. The City's motion for summary judgment was denied because of factual disputes regarding whether the City's adjacent property could be considered dangerous under California dangerous condition principles and CACI No. 1125 jury instructions addressing contiguous property exposure. Although joint and several liability was not a significant issue, because economic damages were limited, the City ultimately spent approximately $882,000 to resolve the matter and avoid trial risk associated with potential jury sympathy and uncertainty regarding the allocation of responsibility between overlapping public entities.

[98] https://caselaw.findlaw.com/court/ca-supreme-court/1190462.html

Collectively, these cases show how public entities and JPAs are increasingly functioning as insurers of last resort, absorbing substantial financial exposure in cases involving catastrophic injuries, third-party conduct, and expansive dangerous condition liability theories.

Table 10. Selected Verdicts / Settlements as a Share of Annual General Fund Revenue, CA

Case	Verdict / Settlement	As Share of General Fund Revenue
Daquan Jones v. Firebaugh (2021)	$9.3 million verdict	249%[99]
De La Cruz v. Apple Valley (2016)	$60.0 million verdict	200%[100]
Mojarro v. Whittier (2020)	$28.0 million settlement	38%[101]
Barrios v. Commerce	$18.0 million settlement	22%[102]
Bautista v. Chino Hills	$10.0 million settlement	18%[103]
Blackburn v. Hesperia (2022)	$12.5 million settlement	11%[104]
Gurrola v. Whittier (2025)	$7.5 million settlement	7%[105]

Large verdicts can represent substantial shares of annual local government revenues. In some cases, awards have exceeded the equivalent of an entire year's General Fund revenue, while in others they have represented meaningful portions of annual operating resources.

[99] https://firebaugh.org/wp-content/uploads/2021/07/FYE22_FinalBudget.pdf
[100] https://www.applevalleymn.gov/DocumentCenter/View/10049/2017-Popular-Annual-Financial-Report?bidId=
[101] https://www.cityofwhittier.org/home/showpublisheddocument/6648/637378543656030000
[102] https://www.commerceca.gov/city-hall/finance/city-of-commerce-essential-services-protection-measure
[103] https://www.chinohills.org/DocumentCenter/View/31817/City-of-Chino-Hills-Adopts-Budget-with-Deficit-PDF?bidId=
[104] https://hesperiaca.opengov.com/
[105] https://www.cityofwhittier.org/home/showpublisheddocument/16220/638961318530730000

Conclusion

The findings in this report point to a clear shift in California's public entity liability. The issue is not simply the number of claims filed each year, but the growing concentration of exposure in high-severity claims that take years to resolve and remain open on public balance sheets. Over time, the growing concentration of high-severity claim compounds fiscal risk, increases uncertainty for local governments, and contributes to rising insurance and risk-pooling costs across California public entities.

By pairing statewide claims data with fiscal analysis, this report shows how liability exposure translates into budget impacts through direct self-insured retention payments, rising pool contributions, higher reinsurance costs, and increasing pressure on departmental operating budgets. The report further demonstrates how California's current liability rules—including broad dangerous condition liability standards, pure comparative negligence, joint and several liability for economic damages, and the absence of general compensatory damage caps—may expose public entities to substantial financial risk even in cases involving third-party misconduct, adjacent property conditions, or relatively limited fault allocation.

The analysis also suggests that liability exposure is increasingly concentrated in catastrophic and high-severity claims involving long-term medical care, wrongful death, sexual abuse allegations, and large future economic damages. As these claims become more common and more costly—and often remain unresolved for longer periods—public agencies may face growing constraints in budget flexibility, infrastructure investment, staffing, and long-term fiscal planning.

Ultimately, the question facing policymakers is not whether those who have been harmed should be compensated. Rather, it is how to balance fair recovery with greater stability, predictability, and fiscal sustainability for the public agencies responsible for funding essential services across California's communities.

JUNE 2026

PEPPERDINE
School of Public Policy

BEACON ECONOMICS