

ASSEMBLY BILL

No. 683

Introduced by Assembly Member Mullin

February 21, 2013

An act to amend, repeal, and add Section 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 683, as introduced, Mullin. Local government: fines and penalties: assessments.

Existing law authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, as specified.

This bill would, until January 1, 2020, authorize a city, county, or city and county to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the city, county, or city and county against real property owned by the person owing those fines or penalties where the fines or penalties are related to ordinance violations on the real property upon which the fines or penalties would be specially assessed, and the ordinance violations constitute a threat to public health and safety. This bill would require a city, county, or city and county to comply with certain notice requirements. The bill would provide that the assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes, and would authorize the city, county, or city and county to record a lien against the property. This bill would authorize a local agency to appoint a

hearing officer to hear and decide issues regarding ordinance violations and the imposition of administrative fines and penalties.

This bill would, until January 1, 2020, provide that the powers given to the legislative body of a city, county, or city and county under these provisions are in addition to any other powers of a city, county, or city and county under its charter or any other legal authority.

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

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

1 SECTION 1. Section 53069.4 of the Government Code is
2 amended to read:

3 53069.4. (a) (1) The legislative body of a local agency, as the
4 term “local agency” is defined in Section 54951, may by ordinance
5 make any violation of any ordinance enacted by the local agency
6 subject to an administrative fine or penalty. The local agency shall
7 set forth by ordinance the administrative procedures that shall
8 govern the imposition, enforcement, collection, and administrative
9 review by the local agency of those administrative fines or
10 penalties. Where the violation would otherwise be an infraction,
11 the administrative fine or penalty shall not exceed the maximum
12 fine or penalty amounts for infractions set forth in subdivision (b)
13 of Section 25132 and subdivision (b) of Section 36900. *The powers
14 given to the legislative body of a city, county, or city and county
15 under this section are in addition to any other powers of a city,
16 county, or city and county under its charter or any other legal
17 authority.*

18 (2) (A) The administrative procedures set forth by ordinance
19 adopted by the local agency pursuant to paragraph (1) shall provide
20 for a reasonable period of time, as specified in the ordinance, for
21 a person responsible for a continuing violation to correct or
22 otherwise remedy the violation prior to the imposition of
23 administrative fines or penalties, when the violation pertains to
24 building, plumbing, electrical, or other similar structural or zoning
25 issues, that do not create an immediate danger to health or safety.

26 (B) *Pursuant to Chapter 14 (commencing with Section 27720)
27 of Part 3 of Division 1 of Title 3, or other applicable law, the
28 administrative procedures adopted by ordinance pursuant to
29 paragraph (1) may authorize the appointment of one or more*

1 *hearing officers to hear and decide issues regarding ordinance*
2 *violations and the imposition of administrative fines or penalties.*

3 *(C) A city, county, or city and county may, by ordinance,*
4 *combine the administrative procedures adopted pursuant to*
5 *paragraph (1) with nuisance abatement procedures adopted by*
6 *ordinance pursuant to Sections 25845, 38773.1, and 38773.5.*

7 *(3) (A) If the owner of real property fails to pay fines or*
8 *penalties upon demand by a city, county, or city and county, the*
9 *city, county, or city and county may, after notice and public*
10 *hearing, order the fines or penalties to be specially assessed*
11 *against the parcel if the fines or penalties are related to ordinance*
12 *violations on the real property upon which the fines or penalties*
13 *would be specially assessed and the ordinance violations constitute*
14 *a threat to public health and safety. The city, county, or city and*
15 *county shall mail or deliver notice of the hearing at least 15 days*
16 *prior to the hearing to the owner of the parcel. For purposes of*
17 *notice, ownership of the parcel shall be determined by the latest*
18 *assessment roll, the records of the county assessor, or the records*
19 *of the tax collector, whichever is most recent. The assessment may*
20 *be collected at the same time and in the same manner as ordinary*
21 *county taxes are collected, and shall be subject to the same*
22 *penalties and the same procedure and sale in case of delinquency*
23 *as are provided for ordinary county taxes. All laws applicable to*
24 *the levy, collection, and enforcement of county taxes are applicable*
25 *to the special assessment, except that the special assessment is not*
26 *subject to the priority for special assessment liens provided for in*
27 *Article 13 (commencing with Section 53930) of Chapter 4 of Part*
28 *1 of Division 2. The assessment does not constitute a lien on real*
29 *property until a notice of lien is recorded pursuant to this section.*

30 *(B) If a city, county, or city and county specially assesses the*
31 *cost of the administrative fines or penalties against the parcel, the*
32 *city, county, or city and county also may cause a notice of lien to*
33 *be recorded to perfect the lien. The notice shall, at a minimum,*
34 *identify the assessor's parcel number and record owner, set forth*
35 *the last known address of the record owner, set forth the date upon*
36 *which assessment was ordered by the city, county, or city and*
37 *county, and the amount of the lien.*

38 *(C) Recordation of a notice of lien pursuant to subparagraph*
39 *(B) has the same effect as recordation of an abstract of a money*
40 *judgment recorded pursuant to Article 2 (commencing with Section*

1 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code
2 of Civil Procedure. The lien created against the parcel has the
3 same force, effect, and priority as a judgment lien on real property.
4 Upon order of the city, county, or city and county, or any officer
5 authorized by the city, county, or city and county to act on its
6 behalf, a lien created under this section may be released or
7 subordinated in the same manner as a judgment lien on real
8 property may be released or subordinated.

9 (b) (1) Notwithstanding the provisions of Section 1094.5 or
10 1094.6 of the Code of Civil Procedure, within 20 days after service
11 of the final administrative order or decision of the local agency is
12 made pursuant to an ordinance enacted in accordance with this
13 section regarding the imposition, enforcement, or collection of the
14 administrative fines or penalties, a person contesting that final
15 administrative order or decision may seek review by filing an
16 appeal to be heard by the superior court, where the same shall be
17 heard de novo, except that the contents of the local agency's file
18 in the case shall be received in evidence. A proceeding under this
19 subdivision is a limited civil case. A copy of the document or
20 instrument of the local agency providing notice of the violation
21 and imposition of the administrative fine or penalty shall be
22 admitted into evidence as prima facie evidence of the facts stated
23 therein. A copy of the notice of appeal shall be served in person
24 or by first-class mail upon the local agency by the contestant.

25 (2) The fee for filing the notice of appeal shall be as specified
26 in Section 70615. The court shall request that the local agency's
27 file on the case be forwarded to the court, to be received within
28 15 days of the request. The court shall retain the fee specified in
29 Section 70615 regardless of the outcome of the appeal. If the court
30 finds in favor of the contestant, the amount of the fee shall be
31 reimbursed to the contestant by the local agency. Any deposit of
32 the fine or penalty shall be refunded by the local agency in
33 accordance with the judgment of the court.

34 (3) The conduct of the appeal under this section is a subordinate
35 judicial duty that may be performed by traffic trial commissioners
36 and other subordinate judicial officials at the direction of the
37 presiding judge of the court.

38 (c) If no notice of appeal of the local agency's final
39 administrative order or decision is filed within the period set forth
40 in this section, the order or decision shall be deemed confirmed.

1 (d) If the fine or penalty has not been deposited and the decision
2 of the court is against the contestant, the local agency may proceed
3 to collect the penalty pursuant to the procedures set forth in its
4 ordinance.

5 (e) *This section shall remain in effect only until January 1, 2020,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2020, deletes or extends that date.*

8 SEC. 2. Section 53069.4 is added to the Government Code, to
9 read:

10 53069.4. (a) (1) The legislative body of a local agency, as the
11 term “local agency” is defined in Section 54951, may by ordinance
12 make any violation of any ordinance enacted by the local agency
13 subject to an administrative fine or penalty. The local agency shall
14 set forth by ordinance the administrative procedures that shall
15 govern the imposition, enforcement, collection, and administrative
16 review by the local agency of those administrative fines or
17 penalties. Where the violation would otherwise be an infraction,
18 the administrative fine or penalty shall not exceed the maximum
19 fine or penalty amounts for infractions set forth in subdivision (b)
20 of Section 25132 and subdivision (b) of Section 36900.

21 (2) The administrative procedures set forth by ordinance adopted
22 by the local agency pursuant to paragraph (1) shall provide for a
23 reasonable period of time, as specified in the ordinance, for a
24 person responsible for a continuing violation to correct or otherwise
25 remedy the violation prior to the imposition of administrative fines
26 or penalties, when the violation pertains to building, plumbing,
27 electrical, or other similar structural or zoning issues, that do not
28 create an immediate danger to health or safety.

29 (b) (1) Notwithstanding the provisions of Section 1094.5 or
30 1094.6 of the Code of Civil Procedure, within 20 days after service
31 of the final administrative order or decision of the local agency is
32 made pursuant to an ordinance enacted in accordance with this
33 section regarding the imposition, enforcement or collection of the
34 administrative fines or penalties, a person contesting that final
35 administrative order or decision may seek review by filing an
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37 heard de novo, except that the contents of the local agency’s file
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39 subdivision is a limited civil case. A copy of the document or
40 instrument of the local agency providing notice of the violation

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6 in Section 70615. The court shall request that the local agency's
7 file on the case be forwarded to the court, to be received within
8 15 days of the request. The court shall retain the fee specified in
9 Section 70615 regardless of the outcome of the appeal. If the court
10 finds in favor of the contestant, the amount of the fee shall be
11 reimbursed to the contestant by the local agency. Any deposit of
12 the fine or penalty shall be refunded by the local agency in
13 accordance with the judgment of the court.

14 (3) The conduct of the appeal under this section is a subordinate
15 judicial duty that may be performed by traffic trial commissioners
16 and other subordinate judicial officials at the direction of the
17 presiding judge of the court.

18 (c) If no notice of appeal of the local agency's final
19 administrative order or decision is filed within the period set forth
20 in this section, the order or decision shall be deemed confirmed.

21 (d) If the fine or penalty has not been deposited and the decision
22 of the court is against the contestant, the local agency may proceed
23 to collect the penalty pursuant to the procedures set forth in its
24 ordinance.

25 (e) This section shall become operative on January 1, 2020.