

AMENDED IN ASSEMBLY MAY 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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 against
11 the parcel if the fines or penalties are related to ordinance violations
12 on the real property upon which the fines or penalties would be
13 specially assessed and the ordinance violations constitute a threat
14 to public health and safety. The city, county, or city and county
15 shall mail or deliver notice of the hearing at least 15 days prior to
16 the hearing to the owner of the parcel. For purposes of notice,
17 ownership of the parcel shall be determined by the latest assessment
18 roll, the records of the county assessor, or the records of the tax
19 collector, whichever is most recent. The assessment may be
20 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 any administrative fine or penalty remains unpaid for~~
31 ~~10 days following the conclusion of the public hearing described~~
32 ~~in subparagraph (A), the Tax Collector may send to the owner of~~
33 ~~the parcel, by certified mail, a notice of enforcement that states~~
34 ~~that if payment has not been received within 45 days following the~~
35 ~~date of the notice, a lien will be recorded. If, after the 45-day~~
36 ~~period following the notice, the fine or penalty has not been paid,~~
37 ~~the city, county, or city and county may specially assesses assess~~
38 ~~the cost of the administrative fines or penalties against the parcel;~~
39 ~~the city, county, or city and county also may parcel and cause a~~
40 ~~notice of lien to be recorded to perfect the lien. The notice of lien~~

1 shall, at a minimum, identify the assessor's parcel number and
2 record owner, set forth the last known address of the record owner,
3 set forth the date upon which assessment was ordered by the city,
4 county, or city and county, and the amount of the lien.

5 (C) Recordation of a notice of lien pursuant to subparagraph
6 (B) has the same effect as recordation of an abstract of a money
7 judgment recorded pursuant to Article 2 (commencing with Section
8 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code
9 of Civil Procedure. The lien created against the parcel has the same
10 force, effect, and priority as a judgment lien on real property. Upon
11 order of the city, county, or city and county, or any officer
12 authorized by the city, county, or city and county to act on its
13 behalf, a lien created under this section may be released or
14 subordinated in the same manner as a judgment lien on real
15 property may be released or subordinated.

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

32 (2) The fee for filing the notice of appeal shall be as specified
33 in Section 70615. The court shall request that the local agency's
34 file on the case be forwarded to the court, to be received within
35 15 days of the request. The court shall retain the fee specified in
36 Section 70615 regardless of the outcome of the appeal. If the court
37 finds in favor of the contestant, the amount of the fee shall be
38 reimbursed to the contestant by the local agency. Any deposit of
39 the fine or penalty shall be refunded by the local agency in
40 accordance with the judgment of the court.

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

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

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

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

15 SEC. 2. Section 53069.4 is added to the Government Code, to
16 read:

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

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

36 (b) (1) Notwithstanding the provisions of Section 1094.5 or
37 1094.6 of the Code of Civil Procedure, within 20 days after service
38 of the final administrative order or decision of the local agency is
39 made pursuant to an ordinance enacted in accordance with this
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 18 reimbursed to the contestant by the local agency. Any deposit of
 19 the fine or penalty shall be refunded by the local agency in
 20 accordance with the judgment of the court.

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

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

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

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