

AMENDED IN SENATE AUGUST 26, 2015

AMENDED IN SENATE JULY 15, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 9, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 514**

**Introduced by Assembly Member Williams**

February 23, 2015

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An act to amend Sections 25132 and 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 514, as amended, Williams. Ordinances: violations: administrative fines.

Existing law authorizes the legislative body of a city, county, or city and county to collect any fee, cost, or charge incurred in specified activities, including the abatement of public nuisances, enforcement of specified zoning ordinances, inspections and abatement of violations of the State Housing Law, inspections and abatement of violations of the California Building Standards Code, and inspections and abatement of violations related to local ordinances that implement these laws. Existing law limits the amount of this fee, cost, or charge to the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

Existing law authorizes the legislative body of a local agency to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for infractions, as specified. For violations of city or county building and safety codes determined to be an infraction, existing law limits the amount of the fine to \$100 for a first violation, \$500 for a 2nd violation of the same ordinance within one year, and \$1,000 for each additional violation of the same ordinance within one year of the first violation.

This bill would authorize a county to establish administrative fines, not to exceed specified limits, for violations of certain county ordinances, including a county building and safety ordinance, brush removal ordinance, grading ordinance, film permit ordinance, or zoning ordinance, determined to be an infraction, subject to certain county findings.

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 25132 of the Government Code is  
2 amended to read:

3 25132. (a) Violation of a county ordinance is a misdemeanor  
4 unless by ordinance it is made an infraction. The violation of a  
5 county ordinance may be prosecuted by county authorities in the  
6 name of the people of the State of California, or redressed by civil  
7 action.

8 (b) Every violation determined to be an infraction is punishable  
9 by the following:

10 (1) A fine not exceeding one hundred dollars (\$100) for a first  
11 violation.

12 (2) A fine not exceeding two hundred dollars (\$200) for a second  
13 violation of the same ordinance within one year.

14 (3) A fine not exceeding five hundred dollars (\$500) for each  
15 additional violation of the same ordinance within one year.

16 (c) Notwithstanding any other provision of law, a violation of  
17 local building and safety codes determined to be an infraction is  
18 punishable by an administrative fine described in Section 53069.4  
19 or by one of the following:

20 (1) A fine not exceeding one hundred dollars (\$100) for a first  
21 violation.

1 (2) A fine not exceeding five hundred dollars (\$500) for a second  
2 violation of the same ordinance within one year.

3 (3) A fine not exceeding one thousand dollars (\$1,000) for each  
4 additional violation of the same ordinance within one year of the  
5 first violation.

6 SEC. 2. Section 53069.4 of the Government Code is amended  
7 to read:

8 53069.4. (a) (1) The legislative body of a local agency, as the  
9 term “local agency” is defined in Section 54951, may by ordinance  
10 make any violation of any ordinance enacted by the local agency  
11 subject to an administrative fine or penalty. The local agency shall  
12 set forth by ordinance the administrative procedures that shall  
13 govern the imposition, enforcement, collection, and administrative  
14 review by the local agency of those administrative fines or  
15 penalties. Where the violation would otherwise be an infraction,  
16 the administrative fine or penalty shall not exceed the maximum  
17 fine or penalty amounts for infractions set forth in subdivision (b)  
18 of Section 25132 and subdivision (b) of Section 36900.

19 (2) ~~(A)~~ Notwithstanding paragraph (1), the amount of an  
20 administrative fine for ~~the a one-time~~ violation of a county building  
21 and safety ordinance, brush removal ordinance, grading ordinance,  
22 film permit ordinance, or zoning ordinance, that is determined to  
23 be an infraction ~~shall, if the county makes the findings required~~  
24 ~~by subparagraph (B), shall~~ be based upon the severity of the threat  
25 to public health and safety and shall not exceed the following:

26 ~~(A)(i)~~

27 (A) For the first violation, an amount that does not exceed five  
28 thousand dollars (\$5,000) or the amount of the permit fee required  
29 by the ordinance multiplied by three, whichever is less. In the  
30 absence of a permit fee, an amount that does not exceed one  
31 thousand dollars (\$1,000).

32 ~~(B)(ii)~~

33 (B) For the second violation of the same ordinance within five  
34 years of the first violation, an amount that does not exceed ten  
35 thousand dollars (\$10,000) or the amount of the permit fee required  
36 by the ordinance multiplied by five, whichever is less. In the  
37 absence of a permit fee, an amount that does not exceed two  
38 thousand five hundred dollars (\$2,500).

39 ~~(C)(iii)~~

1 (C) For the third violation and subsequent violations of the same  
 2 ordinance within five years of the first violation, an amount that  
 3 is greater than ten thousand dollars (\$10,000), but does not exceed  
 4 fifteen thousand dollars (\$15,000). In the absence of a permit fee,  
 5 an amount that does not exceed five thousand dollars (\$5,000).

6 ~~(B) A county shall not assess an administrative fine of more~~  
 7 ~~than five hundred dollars (\$500) pursuant to subparagraph (A)~~  
 8 ~~unless the county makes both of the following findings in the~~  
 9 ~~administrative record:~~

10 (D) *Notwithstanding subparagraphs (A) to (C), inclusive, an*  
 11 *administrative fine assessed pursuant to this paragraph shall not*  
 12 *exceed five hundred dollars (\$500) unless both of the following*  
 13 *findings are made in the administrative record prior to the*  
 14 *assessment of the administrative fine:*

15 (i) ~~The administrative fine was assessed for a willful violation~~  
 16 ~~or a violation that person who violated the ordinance did so~~  
 17 ~~willingly or the violation resulted in an unusual and significant~~  
 18 ~~threat to the public health and safety.~~

19 (ii) The payment of the administrative fine would not impose  
 20 an undue financial hardship on the person responsible for the  
 21 payment.

22 (E) *For purposes of this paragraph, “a one-time violation”*  
 23 *means a violation that is not a continuing violation and cannot be*  
 24 *corrected or cured, including, but not limited to, a violation of*  
 25 *permit conditions or a use violation.*

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

34 (b) (1) Notwithstanding the provisions of Section 1094.5 or  
 35 1094.6 of the Code of Civil Procedure, within 20 days after service  
 36 of the final administrative order or decision of the local agency is  
 37 made pursuant to an ordinance enacted in accordance with this  
 38 section regarding the imposition, enforcement or collection of the  
 39 administrative fines or penalties, a person contesting that final  
 40 administrative order or decision may seek review by filing an

1 appeal to be heard by the superior court, where the same shall be  
2 heard de novo, except that the contents of the local agency's file  
3 in the case shall be received in evidence. A proceeding under this  
4 subdivision is a limited civil case. A copy of the document or  
5 instrument of the local agency providing notice of the violation  
6 and imposition of the administrative fine or penalty shall be  
7 admitted into evidence as prima facie evidence of the facts stated  
8 therein. A copy of the notice of appeal shall be served in person  
9 or by first-class mail upon the local agency by the contestant.

10 (2) The fee for filing the notice of appeal shall be as specified  
11 in Section 70615. The court shall request that the local agency's  
12 file on the case be forwarded to the court, to be received within  
13 15 days of the request. The court shall retain the fee specified in  
14 Section 70615 regardless of the outcome of the appeal. If the court  
15 finds in favor of the contestant, the amount of the fee shall be  
16 reimbursed to the contestant by the local agency. Any deposit of  
17 the fine or penalty shall be refunded by the local agency in  
18 accordance with the judgment of the court.

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

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

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