

AMENDED IN SENATE JUNE 9, 2010
AMENDED IN ASSEMBLY APRIL 27, 2010
AMENDED IN ASSEMBLY APRIL 26, 2010
AMENDED IN ASSEMBLY APRIL 7, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2613

Introduced by Assembly Member Beall

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2613, as amended, Beall. 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 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. 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.

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.

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

22 (B) Pursuant to Chapter 14 (commencing with Section 27720)
23 of Part 3 of Division 1 of Title 3, the administrative procedures
24 adopted by ordinance pursuant to paragraph (1) may authorize the
25 appointment of one or more hearing officers to hear and decide
26 issues regarding ordinance violations and the imposition of
27 administrative fines or penalties.

28 (C) A city, county, or city and county may, by ordinance,
29 combine the administrative procedures adopted pursuant to
30 paragraph (1) with nuisance abatement procedures adopted by
31 ordinance pursuant to Section 25845.

32 (3) (A) If the owner of real property fails to pay fines or
33 penalties upon demand by a city, county, or city and county, the

1 city, county, or city and county may, after notice and public
2 hearing, order the fines or penalties to be specially assessed against
3 the parcel if the fines or penalties are related to ordinance violations
4 on the real property upon which the fines or penalties would be
5 specially assessed. The assessment may be collected at the same
6 time and in the same manner as ordinary county taxes are collected,
7 and shall be subject to the same penalties and the same procedure
8 and sale in case of delinquency as are provided for ordinary county
9 taxes. All laws applicable to the levy, collection, and enforcement
10 of county taxes are applicable to the special assessment. *The*
11 *assessment does not constitute a lien on real property until a notice*
12 *of lien is recorded pursuant to this section.*

13 (B) If a city, county, or city and county specially assesses the
14 cost of the administrative fines or penalties against the parcel, the
15 city, county, or city and county also may cause a notice of
16 abatement lien to be recorded *to perfect the lien*. The notice shall,
17 at a minimum, identify the *assessor's parcel number and record*
18 *owner or possessor of property*, set forth the last known address
19 of the record owner or possessor, set forth the date upon which
20 assessment was ordered by the city, county, or city and county,
21 and include a description of the real property subject to the lien
22 and the amount of the lien.

23 ~~(C) If a city, county, or city and county does not cause the~~
24 ~~recording of a notice of lien pursuant to subdivision (B), and any~~
25 ~~real property on which the assessment has been imposed has been~~
26 ~~transferred or conveyed to a bona fide purchaser for value, or a~~
27 ~~lien on a bona fide encumbrancer for value has been created and~~
28 ~~attaches to that property, prior to a date on which the first~~
29 ~~installment of county taxes would become delinquent, then the~~
30 ~~assessment shall not result in a lien against that real property but~~
31 ~~shall be transferred to the unsecured roll for collection.~~

32 ~~(D)~~

33 (C) Recording of a notice of lien pursuant to subparagraph
34 (B) has the same effect as recording of an abstract of a money
35 judgment recorded pursuant to Article 2 (commencing with Section
36 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code
37 of Civil Procedure. The lien created *against the parcel* has the
38 same *force, effect, and* priority as a judgment lien on real property
39 and continues in effect until released. Upon order of the city,
40 county, or city and county, or any officer authorized by the city,

1 county, or city and county to act on its behalf, a lien created under
2 this section may be released or subordinated in the same manner
3 as a judgment lien on real property may be released or
4 subordinated.

5 (b) (1) Notwithstanding the provisions of Section 1094.5 or
6 1094.6 of the Code of Civil Procedure, within 20 days after service
7 of the final administrative order or decision of the local agency is
8 made pursuant to an ordinance enacted in accordance with this
9 section regarding the imposition, enforcement, or collection of the
10 administrative fines or penalties, a person contesting that final
11 administrative order or decision may seek review by filing an
12 appeal to be heard by the superior court, where the same shall be
13 heard de novo, except that the contents of the local agency's file
14 in the case shall be received in evidence. A proceeding under this
15 subdivision is a limited civil case. A copy of the document or
16 instrument of the local agency providing notice of the violation
17 and imposition of the administrative fine or penalty shall be
18 admitted into evidence as prima facie evidence of the facts stated
19 therein. A copy of the notice of appeal shall be served in person
20 or by first-class mail upon the local agency by the contestant.

21 (2) The fee for filing the notice of appeal shall be as specified
22 in Section 70615. The court shall request that the local agency's
23 file on the case be forwarded to the court, to be received within
24 15 days of the request. The court shall retain the fee specified in
25 Section 70615 regardless of the outcome of the appeal. If the court
26 finds in favor of the contestant, the amount of the fee shall be
27 reimbursed to the contestant by the local agency. Any deposit of
28 the fine or penalty shall be refunded by the local agency in
29 accordance with the judgment of the court.

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

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

37 (d) If the fine or penalty has not been deposited and the decision
38 of the court is against the contestant, the local agency may proceed

1 to collect the penalty pursuant to the procedures set forth in its
2 ordinance.

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