

AMENDED IN SENATE JUNE 22, 2010

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 *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 public nuisance or threat to public health and safety*. 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, *or any other applicable law*, the
24 administrative procedures adopted by ordinance pursuant to
25 paragraph (1) may authorize the appointment of one or more
26 hearing officers to hear and decide issues regarding ordinance
27 violations and the imposition of administrative fines or penalties.

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

6 (3) (A) If the owner of real property fails to pay fines or
7 penalties upon demand by a city, county, or city and county, the
8 city, county, or city and county may, after notice and public
9 hearing, order the fines or penalties to be specially assessed against
10 the parcel if the fines or penalties are related to ordinance violations
11 on the real property upon which the fines or penalties would be
12 specially assessed *and the ordinance violations constitute a public*
13 *nuisance or threat to public health and safety*. The assessment
14 may be collected at the same time and in the same manner as
15 ordinary county taxes are collected, and shall be subject to the
16 same penalties and the same procedure and sale in case of
17 delinquency as are provided for ordinary county taxes. All laws
18 applicable to the levy, collection, and enforcement of county taxes
19 are applicable to the special assessment. *The assessment does not*
20 *constitute an assessment lien pursuant to Part 1 (commencing with*
21 *Section 53930) of Division 2*. The assessment does not constitute
22 a lien on real property until a notice of lien is recorded pursuant
23 to this section.

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

32 (C) Recordation of a notice of lien pursuant to subparagraph
33 (B) has the same effect as recordation of an abstract of a money
34 judgment recorded pursuant to Article 2 (commencing with Section
35 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code
36 of Civil Procedure. The lien created against the parcel has the same
37 force, effect, and priority as a judgment lien on real property. Upon
38 order of the city, county, or city and county, or any officer
39 authorized by the city, county, or city and county to act on its
40 behalf, a lien created under this section may be released or

1 subordinated in the same manner as a judgment lien on real
2 property may be released or subordinated.

3 (b) (1) Notwithstanding the provisions of Section 1094.5 or
4 1094.6 of the Code of Civil Procedure, within 20 days after service
5 of the final administrative order or decision of the local agency is
6 made pursuant to an ordinance enacted in accordance with this
7 section regarding the imposition, enforcement, or collection of the
8 administrative fines or penalties, a person contesting that final
9 administrative order or decision may seek review by filing an
10 appeal to be heard by the superior court, where the same shall be
11 heard de novo, except that the contents of the local agency's file
12 in the case shall be received in evidence. A proceeding under this
13 subdivision is a limited civil case. A copy of the document or
14 instrument of the local agency providing notice of the violation
15 and imposition of the administrative fine or penalty shall be
16 admitted into evidence as prima facie evidence of the facts stated
17 therein. A copy of the notice of appeal shall be served in person
18 or by first-class mail upon the local agency by the contestant.

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

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

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

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

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