

AMENDED IN SENATE JUNE 30, 2010

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

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 public
14 nuisance or threat to public health and safety. The assessment may
15 be collected at the same time and in the same manner as ordinary
16 county taxes are collected, and shall be subject to the same
17 penalties and the same procedure and sale in case of delinquency
18 as are provided for ordinary county taxes. All laws applicable to
19 the levy, collection, and enforcement of county taxes are applicable
20 to the special assessment. The assessment does not constitute an
21 assessment lien pursuant to Part 1 (commencing with Section
22 53930) of Division 2. The assessment does not constitute a lien
23 on real property until a notice of lien is recorded pursuant to this
24 section.

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

33 (C) Recordation of a notice of lien pursuant to subparagraph
34 (B) has the same effect as recordation 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 same
38 force, effect, and priority as a judgment lien on real property. Upon
39 order of the city, county, or city and county, or any officer
40 authorized by the city, county, or city and county to act on its

1 behalf, a lien created under this section may be released or
2 subordinated in the same manner as a judgment lien on real
3 property may be released or subordinated.

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

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

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

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

36 (d) If the fine or penalty has not been deposited and the decision
37 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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