

AMENDED IN SENATE JUNE 20, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 602

Introduced by Assembly Member DeVore

February 21, 2007

An act to amend ~~Section~~ *Sections 40200.5 and 40215* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 602, as amended, DeVore. Parking violations: issuing and processing agencies.

~~Under existing~~

(1) Existing law, governing the enforcement and processing of parking violations and penalties, authorizes an issuing agency is required to appoint or contract with qualified examiners, or administrative providers that employ qualified examiners, to conduct administrative review hearings to contract with a public entity or private vendor for processing notices of parking violations and notices of delinquent parking violations.

This bill would prohibit an issuing agency from contracting, directly or indirectly, with a private vendor for qualified examiners or administrative hearing providers, if that vendor is providing processing services for that issuing agency require the above described contracts to be based on either a fixed monthly rate or the number of notices processed and would prohibit a contract from including incentives for the processing entity based on the number of notices upheld or denied or the amount of fines collected.

(2) Existing law requires the issuing agency or the processing agency to mail the results of the initial administrative review to the person

contesting the notice of parking violations or delinquent parking violations and places a similar notification requirement on an administrative examiner following an administrative review hearing.

This bill would require the issuing agency or the processing agency, following an initial review, and a qualified examiner, following the issuance of an examiner’s decision, to include in the notice to the person a reason for the denial of a cancellation of a notice of parking violations or delinquent parking violations.

(3) Because this bill would increase the level of service of a city or county processing agency and because a violation of these provisions would be a crime under an existing provision of law, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40200.5 of the Vehicle Code is amended
 2 to read:
 3 40200.5. (a) Except as provided in subdivision (c) of Section
 4 40200.4, an issuing agency may elect to contract with the county,
 5 with a private vendor, or with any other city or county processing
 6 agency, other than the Department of the California Highway
 7 Patrol or other state law enforcement agency, within the county,
 8 with the consent of that other entity, for the processing of notices
 9 of parking violations and notices of delinquent parking violations,
 10 prior to filing with the court pursuant to Section 40230.
 11 If an issuing agency contracts with a private vendor for
 12 processing services, it shall give special consideration to minority
 13 business enterprise participation in providing those services. For

1 purposes of this subdivision, “special consideration” has the same
2 meaning as specified in subdivision (c) of Section 14838 of the
3 Government Code, as it relates to small business preference.

4 (b) ~~Any~~ A contract entered pursuant to subdivision (a) shall
5 provide for monthly distribution of amounts collected between the
6 parties, except those amounts payable to a county pursuant to
7 Chapter 12 (commencing with Section 76000) of Title 8 of the
8 Government Code and amounts payable to the Department of
9 Motor Vehicles pursuant to Section 4763 of this code.

10 (c) *A contract entered pursuant to subdivision (a) shall be based*
11 *on either a fixed monthly rate or on the number of notices*
12 *processed and shall not include incentives for the processing entity*
13 *based on the number of notices upheld or denied or the amount of*
14 *finer collected.*

15 **SECTION 1.**

16 *SEC. 2.* Section 40215 of the Vehicle Code is amended to
17 read:

18 40215. (a) For a period of 21 calendar days from the issuance
19 of a notice of parking violation or 14 calendar days from the
20 mailing of a notice of delinquent parking violation, a person may
21 request an initial review of the notice by the issuing agency. The
22 request may be made by telephone, in writing, or in person. There
23 shall be no charge for this review. If, following the initial review,
24 the issuing agency is satisfied that the violation did not occur, that
25 the registered owner was not responsible for the violation, or that
26 extenuating circumstances make dismissal of the citation
27 appropriate in the interest of justice, the issuing agency shall cancel
28 the notice of parking violation or notice of delinquent parking
29 violation. The issuing agency shall advise the processing agency,
30 if any, of the cancellation. The issuing agency or the processing
31 agency shall mail the results of the initial review to the person
32 contesting the notice, *and, if following that review, cancellation*
33 *of the notice does not occur, include a reason for that denial.*

34 (b) If the person is dissatisfied with the results of the initial
35 review, the person may request an administrative hearing of the
36 violation no later than 21 calendar days following the mailing of
37 the results of the issuing agency’s initial review. The request may
38 be made by telephone, in writing, or in person. The person
39 requesting an administrative hearing shall deposit the amount of
40 the parking penalty with the processing agency. The issuing agency

1 shall provide a written procedure to allow a person to request an
2 administrative hearing without payment of the parking penalty
3 upon satisfactory proof of an inability to pay the amount due.
4 Notice of this procedure shall be provided to all persons requesting
5 an administrative hearing. After January 1, 1996, an administrative
6 hearing shall be held within 90 calendar days following the receipt
7 of a request for an administrative hearing, excluding time tolled
8 pursuant to this article. The person requesting the hearing may
9 request one continuance, not to exceed 21 calendar days.

10 (c) The administrative hearing process shall include the
11 following:

12 (1) The person requesting a hearing shall have the choice of a
13 hearing by mail or in person. An in-person hearing shall be
14 conducted within the jurisdiction of the issuing agency. If an
15 issuing agency contracts with an administrative provider, hearings
16 shall be held within the jurisdiction of the issuing agency or no
17 more than 21 miles outside the county.

18 (2) If the person requesting a hearing is a minor, that person
19 shall be permitted to appear at a hearing or admit responsibility
20 for the parking violation without the necessity of the appointment
21 of a guardian. The processing agency may proceed against the
22 minor in the same manner as against an adult.

23 (3) The administrative hearing shall be conducted in accordance
24 with written procedures established by the issuing agency and
25 approved by the governing body or chief executive officer of the
26 issuing agency. The hearing shall provide an independent,
27 objective, fair, and impartial review of contested parking violations.

28 (4) (A) The issuing agency's governing body or chief executive
29 officer shall appoint or contract with qualified examiners or
30 administrative hearing providers that employ qualified examiners
31 to conduct the administrative hearings. Examiners shall
32 demonstrate those qualifications, training, and objectivity necessary
33 to conduct a fair and impartial review. An examiner shall not be
34 employed, managed, or controlled by a person whose primary
35 duties are parking enforcement, parking citation, processing,
36 collection, or issuance. The examiner shall be separate and
37 independent from the citation collection or processing function.
38 An examiner's continued employment, performance evaluation,
39 compensation, and benefits shall not, directly or indirectly, be
40 linked to the amount of fines collected by the examiner.

1 (B) Examiners shall have a minimum of 20 hours of training.
2 The examiner is responsible for the costs of the training. The
3 issuing agency may reimburse the examiner for those costs.
4 Training may be provided through (i) an accredited college or
5 university, (ii) a program conducted by the Commission on Peace
6 Officer Standards and Training, (iii) American Arbitration
7 Association or a similar established organization, or (iv) through
8 any program approved by the governing board of the issuing
9 agency, including a program developed and provided by, or for,
10 the agency. Training programs may include topics relevant to the
11 administrative hearing, including, but not limited to, applicable
12 laws and regulations, parking enforcement procedures, due process,
13 evaluation of evidence, hearing procedures, and effective oral and
14 written communication. Upon the approval of the governing board
15 of the issuing agency, up to 12 hours of relevant experience may
16 be substituted for up to 12 hours of training. In addition, up to
17 eight hours of the training requirements described in this
18 subparagraph may be credited to an individual, at the discretion
19 of the governing board of the issuing agency, based upon training
20 programs or courses described in (i) to (iv), inclusive, that the
21 individual attended within the last five years.

22 ~~(C) An issuing agency shall not contract, directly or indirectly,~~
23 ~~with a private vendor for either qualified examiners or~~
24 ~~administrative hearing providers, if that vendor is providing~~
25 ~~processing services for that issuing agency pursuant to Section~~
26 ~~40200.5.~~

27 (5) The officer or person who issues a notice of parking violation
28 shall not be required to participate in an administrative hearing.
29 The issuing agency shall not be required to produce any evidence
30 other than the notice of parking violation or copy thereof and
31 information received from the Department of Motor Vehicles
32 identifying the registered owner of the vehicle. The documentation
33 in proper form shall be prima facie evidence of the violation.

34 (6) The examiner's decision following the administrative hearing
35 may be personally delivered to the person by the examiner or sent
36 by first-class mail, *and, if the notice is not cancelled, include a*
37 *written reason for that denial.*

38 (7) Following a determination by the examiner that a person
39 has committed the violation, the examiner may, consistent with
40 the written guidelines established by the issuing agency, allow

1 payment of the parking penalty in installments, or an issuing
2 agency may allow for deferred payment or allow for payments in
3 installments, if the person provides evidence satisfactory to the
4 examiner or the issuing agency, as the case may be, of an inability
5 to pay the parking penalty in full. If authorized by the governing
6 board of the issuing agency, the examiner may permit the
7 performance of community service in lieu of payment of a parking
8 penalty.

9 (d) The provisions of this section relating to the administrative
10 appeal process do not apply to an issuing agency that is a law
11 enforcement agency if the issuing agency does not also act as the
12 processing agency.

13 *SEC. 3. No reimbursement is required by this act pursuant to*
14 *Section 6 of Article XIII B of the California Constitution for certain*
15 *costs that may be incurred by a local agency or school district*
16 *because, in that regard, this act creates a new crime or infraction,*
17 *eliminates a crime or infraction, or changes the penalty for a crime*
18 *or infraction, within the meaning of Section 17556 of the*
19 *Government Code, or changes the definition of a crime within the*
20 *meaning of Section 6 of Article XIII B of the California*
21 *Constitution.*

22 *However, if the Commission on State Mandates determines that*
23 *this act contains other costs mandated by the state, reimbursement*
24 *to local agencies and school districts for those costs shall be made*
25 *pursuant to Part 7 (commencing with Section 17500) of Division*
26 *4 of Title 2 of the Government Code.*

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