

Introduced by Senator Alquist

February 23, 1995

An act to amend Section 1094.6 of the Code of Civil Procedure and to add Section 53069.4 to the Government Code, relating to administrative citations.

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as introduced, Alquist. Administrative citations.

Existing law establishes procedures for the enforcement and criminal prosecution of certain standing and parking offenses by the issuing local agency.

This bill would authorize the legislative body of a local agency to adopt an ordinance to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The bill would require that the ordinance set forth the administrative procedures that govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties and the bill would set forth certain requirements for those procedures.

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 1094.6 of the Code of Civil
- 2 Procedure is amended to read:
- 3 1094.6. (a) Judicial review of any decision of a local
- 4 agency, other than school district, as the term local

1 agency is defined in Section 54951 of the Government
2 Code, or of any commission, board, officer or agent
3 thereof, may be had pursuant to Section 1094.5 of this
4 code only if the petition for writ of mandate pursuant to
5 such section is filed within the time limits specified in this
6 section.

7 (b) Any such petition shall be filed not later than the
8 90th day following the date on which the decision
9 becomes final. If there is no provision for reconsideration
10 of the decision, or for a written decision or written
11 findings supporting the decision, in any applicable
12 provision of any statute, charter, or rule, for the purposes
13 of this section, the decision is final on the date it is
14 announced. If the decision is not announced at the close
15 of the hearing, the date, time, and place of the
16 announcement of the decision shall be announced at the
17 hearing. If there is a provision for reconsideration, the
18 decision is final for purposes of this section upon the
19 expiration of the period during which such
20 reconsideration can be sought; provided, that if
21 reconsideration is sought pursuant to any such provision
22 the decision is final for the purposes of this section on the
23 date that reconsideration is rejected. If there is a
24 provision for a written decision or written findings, the
25 decision is final for purposes of this section upon the date
26 it is mailed by first-class mail, postage prepaid, including
27 a copy of the affidavit or certificate of mailing, to the party
28 seeking the writ. Subdivision (a) of Section 1013 does not
29 apply to extend the time, following deposit in the mail of
30 the decision or findings, within which a petition shall be
31 filed.

32 (c) The complete record of the proceedings shall be
33 prepared by the local agency or its commission, board,
34 officer, or agent which made the decision and shall be
35 delivered to the petitioner within 190 days after he has
36 filed a written request therefor. The local agency may
37 recover from the petitioner its actual costs for
38 transcribing or otherwise preparing the record. Such
39 record shall include the transcript of the proceedings, all
40 pleadings, all notices and orders, any proposed decision



1 by a hearing officer, the final decision, all admitted
2 exhibits, all rejected exhibits in the possession of the local
3 agency or its commission, board, officer, or agent, all
4 written evidence, and any other papers in the case.

5 (d) If the petitioner files a request for the record as
6 specified in subdivision (c) within 10 days after the date
7 the decision becomes final as provided in subdivision (b),
8 the time within which a petition pursuant to Section
9 1094.5 may be filed shall be extended to not later than the
10 30th day following the date on which the record is either
11 personally delivered or mailed to the petitioner or his
12 attorney of record, if he has one.

13 (e) As used in this section, decision means a decision
14 subject to review pursuant to Section 1094.5, suspending,
15 demoting, or dismissing an officer or employee, revoking,
16 ~~or~~ denying an application for a permit, license, or other
17 entitlement, *imposing a civil or administrative penalty,*
18 *fine, charge, or cost,* or denying an application for any
19 retirement benefit or allowance.

20 (f) In making a final decision as defined in subdivision
21 (e), the local agency shall provide notice to the party that
22 the time within which judicial review must be sought is
23 governed by this section.

24 As used in this subdivision, “party” means an officer or
25 employee who has been suspended, demoted or
26 dismissed; a person whose permit, license, or other
27 entitlement has been revoked or suspended, or whose
28 application for a permit, license, or other entitlement has
29 been denied; or a person whose application for a
30 retirement benefit or allowance has been denied.

31 (g) This section shall prevail over any conflicting
32 provision in any otherwise applicable law relating to the
33 subject matter, unless the conflicting provision is a state
34 or federal law which provides a shorter statute of
35 limitations, in which case the shorter statute of limitations
36 shall apply.

37 SEC. 2. Section 53069.4 is added to the Government
38 Code, to read:

39 53069.4. The legislative body of a local agency, as the
40 term “local agency” is defined in Section 54951, may be



1 ordinance make any violation of any ordinance enacted
2 by the local agency subject to an administrative fine or
3 penalty. The local agency shall set forth by ordinance the
4 administrative procedures that shall govern the
5 imposition, enforcement, collection, and administrative
6 review by the local agency of those administrative fines
7 or penalties.

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

26 (2) The fee for filing the notice of appeal shall be
27 twenty-five dollars (\$25). The court shall request that the
28 local agency's file on the case be forwarded to the court,
29 to be received within 15 days of the request. The court
30 shall retain the twenty-five dollar (\$25) fee regardless of
31 the outcome of the appeal. If the court finds in favor of the
32 contestant, the amount of the fee shall be reimbursed to
33 the contestant by the local agency. Any deposit of the fine
34 or penalty shall be refunded by the local agency in
35 accordance with the judgment of the court.

36 (3) The conduct of the appeal under this section is a
37 subordinate judicial duty that may be performed by
38 traffic trial commissioners and other subordinate judicial
39 officials at the direction of the presiding judge of the
40 court.



1 (d) If no notice of appeal of the local agency's final
2 administrative order or decision is filed within the period
3 set forth in this section, the order or decision shall be
4 deemed confirmed.

5 (e) If the fine or penalty has not been deposited and
6 the decision of the court is against the contestant, the local
7 agency may proceed to collect the penalty pursuant to
8 the procedures set forth in its ordinance.

O

