

AMENDED IN ASSEMBLY AUGUST 21, 1995

AMENDED IN ASSEMBLY JUNE 21, 1995

AMENDED IN SENATE APRIL 24, 1995

SENATE BILL

No. 814

Introduced by Senators Alquist and Kopp

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

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

36 (c) The complete record of the proceedings shall be
37 prepared by the local agency or its commission, board,
38 officer, or agent which made the decision and shall be



1 delivered to the petitioner within 190 days after he has
2 filed a written request therefor. The local agency may
3 recover from the petitioner its actual costs for
4 transcribing or otherwise preparing the record. Such
5 record shall include the transcript of the proceedings, all
6 pleadings, all notices and orders, any proposed decision
7 by a hearing officer, the final decision, all admitted
8 exhibits, all rejected exhibits in the possession of the local
9 agency or its commission, board, officer, or agent, all
10 written evidence, and any other papers in the case.

11 (d) If the petitioner files a request for the record as
12 specified in subdivision (c) within 10 days after the date
13 the decision becomes final as provided in subdivision (b),
14 the time within which a petition pursuant to Section
15 1094.5 may be filed shall be extended to not later than the
16 30th day following the date on which the record is either
17 personally delivered or mailed to the petitioner or his
18 attorney of record, if he has one.

19 (e) As used in this section, decision means a decision
20 subject to review pursuant to Section 1094.5, suspending,
21 demoting, or dismissing an officer or employee, revoking,
22 denying an application for a permit, license, or other
23 entitlement, imposing a civil or administrative penalty,
24 fine, charge, or cost, or denying an application for any
25 retirement benefit or allowance.

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

30 As used in this subdivision, “party” means an officer or
31 employee who has been suspended, demoted or
32 dismissed; a person whose permit, license, or other
33 entitlement has been revoked or suspended, or whose
34 application for a permit, license, or other entitlement has
35 been denied; or a person whose application for a
36 retirement benefit or allowance has been denied.

37 (g) This section shall prevail over any conflicting
38 provision in any otherwise applicable law relating to the
39 subject matter, unless the conflicting provision is a state
40 or federal law which provides a shorter statute of



1 limitations, in which case the shorter statute of limitations
2 shall apply.

3 SEC. 2. Section 53069.4 is added to the Government
4 Code, to read:

5 53069.4. (a) (1) The legislative body of a local
6 agency, as the term “local agency” is defined in Section
7 54951, may by ordinance make any violation of any
8 ordinance enacted by the local agency subject to an
9 administrative fine or penalty. The local agency shall set
10 forth by ordinance the administrative procedures that
11 shall govern the imposition, enforcement, collection, and
12 administrative review by the local agency of those
13 administrative fines or penalties. Where the violation
14 would otherwise be an infraction, the administrative fine
15 or penalty shall not exceed the maximum fine or penalty
16 amounts for infractions set forth in subdivision (b) of
17 Section 25132 and subdivision (b) of Section 36900.

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

28 (b) (1) Notwithstanding the provisions of Section
29 ~~1094.5 of the Code of Civil Procedure, within 20 days after~~
30 *1094.5 or 1094.6 of the Code of Civil Procedure within 20*
31 *days after service of* the final administrative order or
32 decision of the local agency is made pursuant to an
33 ordinance enacted in accordance with this section
34 regarding the imposition, enforcement or collection of
35 the administrative fines or penalties, a person contesting
36 that final administrative order or decision may seek
37 review by filing an appeal to be heard by the municipal
38 court, where the same shall be heard de novo, except that
39 the contents of the local agency’s file in the case shall be
40 received in evidence. A copy of the document or



1 instrument of the local agency providing notice of the
2 violation and imposition of the administrative fine or
3 penalty shall be admitted into evidence as prima facie
4 evidence of the facts stated therein. A copy of the notice
5 of appeal shall be served in person or by first-class mail
6 upon the local agency by the contestant.

7 (2) The fee for filing the notice of appeal shall be
8 twenty-five dollars (\$25). The court shall request that the
9 local agency's file on the case be forwarded to the court,
10 to be received within 15 days of the request. The court
11 shall retain the twenty-five dollar (\$25) fee regardless of
12 the outcome of the appeal. If the court finds in favor of the
13 contestant, the amount of the fee shall be reimbursed to
14 the contestant by the local agency. Any deposit of the fine
15 or penalty shall be refunded by the local agency in
16 accordance with the judgment of the court.

17 (3) The conduct of the appeal under this section is a
18 subordinate judicial duty that may be performed by
19 traffic trial commissioners and other subordinate judicial
20 officials at the direction of the presiding judge of the
21 court.

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

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

