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DEPARTMENT OF
PUBLIC WORKS

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 207
915 I STREET
SACRAMENTO, CA
95814-2673

OFFICE OF THE DIRECTOR

916-449-5283

February 15, 1990

ADMINISTRATION
916-449-8747

Law and Legislation Committee
Sacramento California

HONORABLE MEMBERS IN SESSION

SUBJECT: RECOMMENDATION TO OPPOSE AB 685 (FILANTE) RELATING TO SEIZURE AND
IMPOUNDMENT OF ANIMALS

Summary

Assembly Bill 685 by William Filante (R-Greenbrae) would significantly change current law regarding the seizure and impoundment of animals. The legislation proposes to establish a cumbersome system of hearings in which animal owners may challenge the seizure and impoundment. AB 685 would have a "chilling effect" on enforcement of animal control laws by shifting the burden of proof to the Animal Control Officer. In addition, the bill has several unclear and potentially troublesome provisions. Staff recommends that the Law and Legislation Committee declare the City's opposition to AB 685.

Background

AB 685 would recast the provisions of current law which relate to seizure and impoundment of animals. As currently drafted, the legislation would have a significant impact on Animal Control operations.

The bill requires animal control agencies which pick up animals to provide animal owners with an opportunity for a hearing to determine whether their animal were validly seized. If the officer believes prompt action is required for health and safety reasons, he may impound the animal immediately and inform the owner that he or she is entitled to a post-seizure hearing, to be conducted within 48 hours of the owner's request. Where the need for immediate seizure does not exist, the animal owner is entitled to a hearing prior to any seizure or impoundment, and the animal may not be picked up until after the hearing is conducted.

AB 685 is problematic for several reasons. The City's current enforcement of vicious and loose dog ordinances would be severely hampered under its provisions. Animal Control Officers may not be able to pick up loose dogs without first conducting a "reasonable search" to find their owners and provide them notice of their right to a pre-seizure hearing. If a dog bites someone and returns to its owner's home, does the animal pose an immediate threat to health and safety? Again, a pre-seizure hearing would be required before the officer could impound the bite animal. AB 685 would have a "chilling effect" on enforcement of animal control laws and shift the burden of proof to the officer in the field.

AB 685 also requires that the City hold an animal for 10 days after providing notice of the owner's right to a post-seizure hearing. Current law requires that animals be held for 72 hours. The requirement that we house animals for an additional seven days would result in significant costs as well as an increased burden on already limited kennel space. The bill provides that the cost of caring for and treating animals seized shall be paid by the impounding agency. These costs are to constitute a lien on the animal and, if it is determined that the seizure was proper, the animal is not to be returned to the owner until the charges are paid. Our experience is that the majority of animals will not be reclaimed and that the City's costs will not be repaid. We will have sheltered and fed the animals for an additional week and end up either selling or destroying them anyway.

Financial

If AB 685 becomes law, the City would have to pay the cost of the administrative hearings and additional kenneling. In addition, the efficiency of enforcement will be affected by the "reasonable search" and noticing requirements.

Recommendation

It is recommended that the Law and Legislation Committee declare the City's opposition to AB 685 (Filante) relating to seizure and impoundment of animals.

Respectfully submitted,

Reginald Young
Reginald Young
Deputy Director of Public Works

RECOMMENDATION APPROVED:

Solon Wisham, Jr.
Solon Wisham, Jr.
Assistant City Manager

APPROVED:

for Reginald Young
Melvin H. Johnson
Director of Public Works

February 15, 1990
ALL DISTRICTS

Contact Person to Answer Questions:
Roberta Larson, Administrative Services Officer, 449-5877

City of Sacramento
State Legislature

BILL REFERRAL

DATE: February 7, 1990 COMMITTEE ACTION: _____

TO: Bobbi Larson, PW DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: _____

A.B. 685 (Filante), As Amended _____* Author _____

S.B. _____, As Amended _____* Author _____
Relating to Seizure and Impoundment of Animals

* Date of introduction or latest amendment

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. **PLEASE LEAVE THE BILL ATTACHED TO THIS FORM**

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

Existing law sets forth misdemeanor penalties for certain persons who do not provide for the proper care and attention of animals, as specified. Existing law also specifies various powers and duties of certain local officers relating to the care and disposition of those animals.

This bill would recast the provisions providing for the care and disposition of those animals. More specifically, the bill would provide for hearings in which the owner or person authorized to keep the animal may challenge the seizure or impoundment; and the resulting cost of those services. In this regard, the bill would constitute a state-mandated local program by requiring local officers to comply with notification requirements and hearing procedures.

2. Should this measure be: (Please circle desired position)

Supported

Opposed

Supported if Amended

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, including how this measure affects your Department and the fiscal impact of this measure to the City. (Your analysis will be used in communicating with the

#3. (Attachment)

AB 685 would recast the provisions of current law which relate to seizure and impoundment of animals. As currently drafted, the legislation would have a significant impact on Animal Control operations.

The bill requires animal control agencies which pick up animals to provide animal owners with an opportunity for a hearing to determine whether their animal were validly seized. If the officer believes prompt action is required for health and safety reasons, he may impound the animal immediately and inform the owner that he or she is entitled to a post-seizure hearing, to be conducted within 48 hours of the owner's request. Where the need for immediate seizure does not exist, the animal owner is entitled to a hearing prior to any seizure or impoundment, and the animal may not be picked up until after the hearing is conducted.

AB 685 is problematic for several reasons. The City's current enforcement of vicious and loose dog ordinances would be severely hampered under its provisions. Animal Control Officers may not be able to pick up loose dogs without first conducting a "reasonable search" to find their owners and provide them notice of their right to a pre-seizure hearing. If a dog bites someone and returns to its owner's home, does the animal pose an immediate threat to health and safety? Again, a pre-seizure hearing would be required before the officer could impound the bite animal. AB 685 would have a "chilling effect" on enforcement of animal control laws and shift the burden of proof to the officer in the field.

AB 685 also requires that the City hold an animal for 10 days after providing notice of the owner's right to a post-seizure hearing. Current law requires that animals be held for 72 hours. The requirement that we house animals for an additional seven days would result in significant costs as well as an increased burden on already limited kennel space. The bill provides that the cost of caring for and treating animals seized shall be paid by the impounding agency. These costs are to constitute a lien on the animal and, if it is determined that the seizure was proper, the animal is not to be returned to the owner until the charges are paid. Our experience is that the majority of animals will not be reclaimed and that the City's costs will not be repaid. We will have sheltered and fed the animals for an additional week and end up either selling or destroying them anyway.

Governor and the Legislature, so please make your comments in a format that can be used in a letter to those officials.) (Attach additional sheets if necessary.)

See attached.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

7.9(b) oppose legislation which will reduce the options, methods, alternatives, and flexibility available to the City in dealing with issues, problems, and policies of local government.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

N/A

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

Opposed

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

Yes; appropriation

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento. 10

FORM COMPLETED BY: Roberta Larson

DATE: 2/07/90

AMENDED IN ASSEMBLY JANUARY 12, 1990

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

ASSEMBLY BILL

No. 685

Introduced by Assembly Member Filante

February 15, 1989

An act to amend Section 597f of the Penal Code, relating to cruelty to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 685, as amended, Filante. Cruelty to animals.

Existing law sets forth misdemeanor penalties for certain persons who do not provide for the proper care and attention of animals, as specified. Existing law also specifies various powers and duties of certain local officers relating to the care and disposition of those animals.

This bill would recast the provisions providing for the care and disposition of those animals. More specifically, the bill would provide for hearings in which the owner or person authorized to keep the animal may challenge the seizure or impoundment, and the resulting cost of those services. In this regard, the bill would constitute a state-mandated local program by requiring local officers to comply with notification requirements and hearing procedures.

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, including the creation of a State Mandates Claims Fund, to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that if the Commission on State Mandates determines that this bill contains costs mandated by

the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

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

- 1 ~~SECTION 1.~~ Section 597f of the Penal Code is
2 SECTION 1. Section 597f of the Penal Code is
3 amended to read:
4 597f. (a) Every owner, driver, or possessor keeper of
5 any animal, who permits the animal to be in any building,
6 enclosure, lane, street, square, or lot ; of any city, city and
7 county, or judicial district ; without proper care and
8 attention, shall, on conviction, be deemed guilty of a
9 misdemeanor. And it shall be the duty of any peace
10 officer, officer of the humane society, or officer of a
11 pound or animal regulation department of a public
12 agency, to take possession of the animal so abandoned or
13 neglected and care for the animal until it is redeemed by
14 the owner or claimant; and the cost of caring for the
15 animal shall be a lien on the animal until the charges are
16 paid. Every sick, Any peace officer, humane society
17 officer, or animal control officer shall take possession of
18 the stray or abandoned animal and shall provide care and
19 treatment for the animal until the animal is deemed to be
20 in suitable condition to be returned to the owner. When
21 the officer has reasonable grounds to believe that very
22 prompt action is required to protect the health or safety
23 of the animal or the health or safety of others, the officer
24 shall immediately seize the animal and comply with the
25 provisions of subdivision (f). In all other cases, the officer
26 shall comply with the provisions of subdivision (g). The
27 cost of caring for and treating any animal properly seized
28 under this subdivision shall constitute a lien on the animal
29 and the animal shall not be returned to its owner until the
30 charges are paid.
31 (b) Every sick, disabled, infirm, or crippled animal,

1 except a dog or cat, which ~~shall be~~ *is* abandoned in any
2 city, city and county, or judicial district ; may ; ~~if after due~~
3 ~~search no owner can be found therefor,~~ be killed by the
4 officer *if, after a reasonable search, no owner of the*
5 *animal can be found ; and it a.* It shall be the duty of all
6 peace officers, ~~an officer of such society, or officer of a~~
7 ~~pound or animal regulation department of a public~~
8 ~~agency humane society officers, and animal control~~
9 ~~officers~~ to cause the animal to be killed *or rehabilitated*
10 *and placed in a suitable home on information of such*
11 ~~abandonment that the animal is stray or abandoned.~~ The
12 officer may likewise take charge of any animal, including
13 a dog or cat, that by reason of lameness, sickness,
14 feebleness, or neglect, is unfit for the labor it is
15 performing, or that in any other manner is being cruelly
16 treated ; and, ~~if the animal is not then in the custody of~~
17 ~~its owner, the officer shall give notice thereof to the~~
18 ~~owner, if known, and may provide suitable care for the~~
19 ~~animal until it is deemed to be in a suitable condition to~~
20 ~~be delivered to the owner, and any necessary expenses~~
21 ~~which may be incurred for taking care of and keeping the~~
22 ~~animal shall be a lien thereon, to be paid before the~~
23 ~~animal can be lawfully recovered.~~

24 (b) It shall be the duty of all officers of pounds or
25 humane societies, and animal regulation departments of
26 public agencies to convey, and for police and sheriff
27 departments, to cause to be conveyed, and provide care
28 and treatment for the animal until it is deemed to be in
29 a suitable condition to be returned to the owner. When
30 the officer has reasonable grounds to believe that very
31 prompt action is required to protect the health or safety
32 of an animal or the health or safety of others, the officer
33 shall immediately seize the animal and comply with the
34 provisions of subdivision (f). In all other cases, the officer
35 shall comply with the provisions of subdivision (g). The
36 cost of caring for and treating any animal properly seized
37 under this subdivision shall constitute a lien on the animal
38 and the animal shall not be returned to its owner until the
39 charges are paid.

40 (c) Any peace officer, humane society officer, or

1 *animal control officer shall convey* all injured cats and
2 dogs found without their owners in a public place directly
3 to a veterinarian known by the officer ~~or agency~~ to be a
4 veterinarian ~~that~~ *who* ordinarily treats dogs and cats for
5 a determination of whether the animal shall be
6 immediately and humanely destroyed or shall be
7 hospitalized under proper care and given emergency
8 treatment.

9 If the owner does not redeem the animal within the
10 locally prescribed waiting period, the veterinarian may
11 personally perform euthanasia on the animal; or, if the
12 animal is treated and recovers from its injuries, the
13 veterinarian may keep the animal for purposes of
14 adoption, provided the responsible animal control
15 agency has first been contacted and has refused to take
16 possession of the animal.

17 Whenever any animal is transferred ~~pursuant to this~~
18 ~~subdivision~~ to a veterinarian in a clinic, such as an
19 emergency clinic which is not in continuous operation,
20 the veterinarian may, in turn, transfer the animal to
21 appropriate facility.

22 If the veterinarian determines that the animal shall ~~be~~
23 hospitalized under proper care and given emergency
24 treatment, the costs of any services which are provided
25 pending the owner's inquiry to the *responsible* agency,
26 department, or society shall be paid from the dog license
27 fees, fines, and fees for impounding dogs in the city,
28 county, or city and county in which the animal was
29 licensed or, the animal is unlicensed, the jurisdiction in
30 which the animal was found, subject to the provision that
31 this cost be repaid by the animal's owner. *The cost of*
32 *caring for and treating any animal seized under this*
33 *subdivision shall constitute a lien on the animal and the*
34 *animal shall not be returned to the owner until the*
35 *charges are paid.* No veterinarian shall be criminally or
36 civilly liable for any decision which he or she makes or for
37 services which he or she provides pursuant to this ~~section~~
38 *subdivision.*

39 ~~(e)~~

40 (d) An animal control agency which takes possession

1 of an animal pursuant to subdivision ~~(b)~~ (c), shall keep
2 records of the whereabouts of the animal for a 72-hour
3 period from the time of possession and those records shall
4 be available to inspection by the public upon request.

5 ~~(d)~~

6 (e) Notwithstanding any other provisions of this
7 section, any peace officer, ~~of a pound or animal~~
8 ~~regulation department or humane society officer~~, or any
9 animal control officer ~~of a police or sheriff's department~~
10 may, with the approval of his or her immediate superior,
11 humanely destroy any stray or abandoned animal in the
12 field in any case where the animal is too severely injured
13 to move or where a veterinarian is not available and it
14 would be more humane to dispose of the animal.

15 (f) *Whenever an officer authorized under this section*
16 *seizes or impounds an animal based on a reasonable belief*
17 *that prompt action is required to protect the health or*
18 *safety of the animal or the health or safety of others, the*
19 *officer shall, prior to the commencement of any criminal*
20 *proceedings authorized by this section, provide the*
21 *owner or keeper of the animal, if known or ascertainable*
22 *after reasonable investigation, with the opportunity for a*
23 *postseizure hearing to determine the validity of the*
24 *seizure or impoundment, or both.*

25 (1) *The agency shall cause a notice to be affixed to a*
26 *conspicuous place where the animal was situated or*
27 *personally deliver a notice of the seizure or*
28 *impoundment, or both, to the owner or keeper within 48*
29 *hours, excluding weekends and holidays. If the name or*
30 *address of an owner or keeper of an animal to whom*
31 *notice is required to be given cannot be ascertained after*
32 *reasonable investigation, the notice may be served by*
33 *affixing it to a conspicuous place near where the animal*
34 *is situated. The notice shall include all of the following:*

35 (A) *The name, business address, and telephone*
36 *number of the officer providing the notice.*

37 (B) *A description of the animal seized, including any*
38 *identification upon the animal.*

39 (C) *The authority and purpose for the seizure, or*
40 *impoundment, including the time, place, and*

1 *circumstances under which the animal was seized.*

2 *(D) A statement that, in order to receive a postseizure*
3 *hearing, the owner or person authorized to keep the*
4 *animal, or his or her agent, shall request the hearing by*
5 *signing and returning an enclosed declaration of*
6 *ownership or right to keep the animal to the agency*
7 *providing the notice within 10 days, including weekends*
8 *and holidays, of the date of the notice. The declaration*
9 *may be returned by personal delivery or mail.*

10 *(E) A statement that the cost of caring for and treating*
11 *any animal properly seized under this section is a lien on*
12 *the animal and that the animal shall not be returned to*
13 *the owner until the charges are paid, and that failure to*
14 *request or to attend a scheduled hearing shall result in*
15 *liability for this cost.*

16 *(2) The postseizure hearing shall be conducted within*
17 *48 hours of the request, excluding weekends and holidays.*
18 *The county humane society may authorize its own officer*
19 *or employee to conduct the hearing if the hearing officer*
20 *is the same person who directed the seizure*
21 *impoundment of the animal.*

22 *(3) Failure of the owner or keeper, or his or her agent,*
23 *to request or to attend a scheduled hearing shall result in*
24 *a forfeiture of any right to a postseizure hearing or right*
25 *to challenge his or her liability for costs incurred.*

26 *(4) The agency, department, or society employing the*
27 *person who directed the seizure shall be responsible for*
28 *the costs incurred for caring and treating the animal, if it*
29 *is determined in the postseizure hearing that the seizing*
30 *officer did not have reasonable grounds to believe very*
31 *prompt action, including seizure of the animal, was*
32 *required to protect the health or safety of the animal or*
33 *the health or safety of others. If it is determined the*
34 *seizure was justified, the charges for the seizure and care*
35 *of the animal shall be a lien on the animal and the animal*
36 *shall not be returned to its owner until the charges are*
37 *paid.*

38 *(g) Where the need for immediate seizure is not*
39 *present and prior to the commencement of any criminal*
40 *proceedings authorized by this section, the agency shall*

1 provide the owner or keeper of the animal, if known or
2 ascertainable after reasonable investigation, with the
3 opportunity for a hearing prior to any seizure or
4 impoundment of the animal.

5 (1) The agency shall cause a notice to be affixed to a
6 conspicuous place where the animal was situated or
7 personally deliver a notice stating the grounds for
8 believing the animal should be seized under subdivision
9 (a) or (b). The notice shall include all of the following:

10 (A) The name, business address, and telephone
11 number of the officer providing the notice.

12 (B) A description of the animal to be seized, including
13 any identification upon the animal.

14 (C) The authority and purpose for the possible seizure
15 or impoundment.

16 (D) A statement that, in order to receive a hearing
17 prior to any seizure, the owner or person authorized to
18 keep the animal, or his or her agent, shall request the
19 hearing by signing and returning the enclosed
20 declaration of ownership or right to keep the animal to
21 the officer providing the notice within two days,
22 excluding weekends and holidays, of the date of the
23 notice.

24 (E) A statement that the cost of caring for and treating
25 any animal properly seized under this section is a lien on
26 the animal, that any animal seized shall not be returned
27 to the owner until the charges are paid, and that failure
28 to request or to attend a scheduled hearing shall result in
29 a conclusive determination that the animal may properly
30 be seized and that the owner shall be liable for the
31 charges.

32 (2) The preseizure hearing shall be conducted as soon
33 as practicable after receipt of the request. The county
34 humane society or public agency may authorize its own
35 officer or employee to conduct the hearing if the hearing
36 officer is not the same person who requests the seizure or
37 impoundment of the animal and is not junior in rank to
38 that person.

39 (3) Failure of the owner or keeper, or his or her agent,
40 to request or to attend a scheduled hearing shall result in

1 a forfeiture of any right to a preseizure hearing or right
2 to challenge his or her liability for costs incurred pursuant
3 to this section.

4 (4) The hearing officer, after the hearing, may affirm
5 the owner's or keeper's right to custody of the animal or,
6 if reasonable grounds are established, may order the
7 seizure or impoundment of the animal for care and
8 treatment.

9 (h) If any animal is properly seized under this section,
10 and the charges for the seizure or impoundment and any
11 other charges permitted under this section are not paid
12 within 14 days of the seizure, the animal shall be deemed
13 to have been abandoned and may be disposed of by the
14 impounding officer.

15 (i) If the animal is not physically fit or if the officer is
16 not assured, within 14 days of the seizure of the animal,
17 that the owner will provide the necessary care, the
18 animal shall not be returned to its owner and shall be
19 deemed to have been abandoned and may be disposed of
20 by the impounding officer. A veterinarian may humane
21 destroy an impounded animal without regard to the
22 prescribed holding period when it has been determined
23 that the animal has incurred severe injuries or is
24 incurably crippled. A veterinarian also may immediately
25 humanely destroy an impounded animal afflicted with a
26 contagious disease unless the owner or keeper
27 immediately places, at his or her expense, the animal
28 under the control and treatment of a veterinarian.

29 (j) Upon the conviction of a person charged with a
30 violation of this section, all animals lawfully seized and
31 impounded with respect to the violation shall be
32 adjudged by the court to be forfeited and shall thereupon
33 be transferred to the impounding officer for proper
34 disposition. A person convicted of a violation of this
35 section shall be personally liable to the seizing agency for
36 all costs of impoundment from the time of seizure to the
37 time of proper disposition. The provisions of this section
38 shall not prohibit the seizure or impoundment of animals
39 as evidence as provided for under any other provision of
40 law.

1 amended to read:

2 597f. (a) Every owner, driver, or keeper of any
3 animal, who permits the animal to be in any building,
4 enclosure, lane, street, square, or lot, of any city, city and
5 county, or judicial district, without proper care and
6 attention, shall, on conviction, be deemed guilty of a
7 misdemeanor. Any peace officer, humane society officer,
8 or public animal regulation officer shall take possession of
9 the animal and shall provide care and treatment for the
10 animal until the animal is deemed to be in suitable
11 condition to be returned to the owner. When the officer
12 has reasonable grounds to believe that very prompt
13 action is required to protect the health or safety of the
14 animal or the health or safety of others, the officer shall
15 immediately seize the animal and comply with the
16 provisions of subdivision (c). In all other cases, the officer
17 shall comply with the provisions of subdivision (f). The
18 cost of caring for and treating any animal seized under
19 this subdivision shall constitute a lien on the animal until
the charges are paid.

22 (b) Every sick, disabled, infirm, or crippled animal,
23 except a dog or cat, which is abandoned in any city, city
24 and county, or judicial district, may be killed by the
25 officer if after a reasonable search no owner of the animal
26 can be found; and it shall be the duty of all peace officers,
27 humane society officers, and public animal regulation
28 officers to cause the animal to be killed on information of
29 the abandonment. The officer may likewise take charge
30 of any animal, including a dog or cat, that by reason of
31 lameness, sickness, feebleness, or neglect, is unfit for the
32 labor it is performing, or that in any other manner is
33 being cruelly treated and provide care and treatment for
34 the animal until it is deemed to be in a suitable condition
35 to be returned to the owner. When the officer has
36 reasonable grounds to believe that very prompt action is
37 required to protect the health or safety of an animal or
38 the health or safety of others, the officer shall
39 immediately seize the animal and comply with the
40 provisions of subdivision (c). In all other cases, the officer
shall comply with the provisions of subdivision (f). The

1 cost of caring for and treating any animal seized under
2 this subdivision shall constitute a lien on the animal until
3 the charges are paid.

4 (e) Any peace officer, humane society officer, or
5 public animal regulation officer shall convey all injured
6 cats and dogs found without their owners in a public
7 place directly to a veterinarian known by the officer to be
8 a veterinarian who ordinarily treats dogs and cats for a
9 determination of whether the animal shall be
10 immediately and humanely destroyed or shall be
11 hospitalized under proper care and given emergency
12 treatment. Any veterinarian who agrees to make such a
13 determination shall personally perform euthanasia on an
14 animal if the owner does not redeem the animal within
15 the locally prescribed waiting period or if he or she
16 determines that the animal has incurred severe injuries
17 or is incurably crippled. If the veterinarian determines
18 that the animal shall be hospitalized under proper care
19 and given emergency treatment, the costs of any services
20 which are provided pending the owner's inquiry to the
21 responsible agency, department, or society shall be paid
22 from the dog license fees, fines, and fees for impound
23 dogs in the city, county, or city and county in which
24 animal was licensed or, if the animal is unlicensed, are
25 jurisdiction in which the animal was found subject to the
26 provision that this cost be repaid by the animal's owner.
27 No veterinarian shall be criminally or civilly liable for any
28 decision which he or she makes or for services which he
29 or she provides pursuant to this subdivision.

30 (d) Notwithstanding any other provisions of this
31 section, any peace officer, humane society officer, or any
32 public animal regulation officer may, with the approval
33 of his or her immediate superior, humanely destroy any
34 abandoned animal in the field in any case where the
35 animal is too severely injured to move or where a
36 veterinarian is not available and it would be more
37 humane to dispose of the animal.

38 (e) Whenever an officer authorized under this section
39 seizes or impounds an animal and prior to the
40 commencement of any criminal proceedings authorized

1 by this section; the officer shall provide the owner or
2 keeper of the animal, if known or ascertainable after
3 reasonable investigation, with the opportunity for a
4 postseizure hearing to determine the validity of the
5 seizure or impoundment, or both.

6 (1) The officer shall mail or personally deliver a notice
7 of the seizure or impoundment, or both, to the owner or
8 claimant within 48 hours, excluding weekends and
9 holidays. The notice shall include all of the following:

10 (A) The name, and business address and telephone
11 number of the officer providing the notice.

12 (B) A description of the animal seized, including any
13 identification upon the animal.

14 (C) The authority and purpose for the seizure, or
15 impoundment, including the time, place, and
16 circumstances under which the animal was seized.

17 (D) A statement that, in order to receive a postseizure
18 hearing, the owner or person authorized to keep the
19 animal, or his or her agent, shall request the hearing by
20 signing and returning an enclosed declaration of
21 ownership or right to keep the animal to the officer
22 providing the notice within 10 days of the date of the
23 notice.

24 (E) A statement that the cost of caring for and treating
25 any animal seized under this section is a lien on the
26 animal until the charges are paid, and that failure to
27 request or to attend a scheduled hearing shall result in
28 liability for this cost.

29 (2) The postseizure hearing shall be conducted within
30 48 hours of the request, excluding weekends and
31 holidays. The county humane society may authorize its
32 own officer or employee to conduct the hearing if the
33 hearing officer is the same person who directed the
34 seizure or impoundment of the animal.

35 (3) Failure of the owner or keeper, or his or her agent,
36 to request or to attend a scheduled hearing shall result in
37 a forfeiture of any right to a postseizure hearing or right
38 to challenge his or her liability for costs incurred.

39 (4) The agency, department, or society employing the
40 person who directed the seizure shall be responsible for

1 the costs incurred for caring and treating the animal, if it
2 is determined in the precapture hearing that reasonable
3 grounds for the seizure are not established.

4 (A) Where the need for immediate seizure is not
5 present and prior to the commencement of any criminal
6 proceedings authorized by this section, the officer shall
7 provide the owner or keeper of the animal, if known or
8 ascertainable after reasonable investigation, with the
9 opportunity for a hearing prior to any seizure or
10 impoundment of the animal.

11 (1) The officer shall mail or personally deliver a notice
12 of the grounds for believing the animal should be seized
13 under subdivision (a) or (b). The notice shall include all
14 of the following:

15 (A) The name, and business address and telephone
16 number of the officer providing the notice.

17 (B) A description of the animal to be seized.

18 (C) The authority and purpose for the possible seizure
19 or impoundment.

20 (D) A statement that, in order to receive a hearing
21 prior to any seizure, the owner or person authorized to
22 keep the animal, or his or her agent, shall request the
23 hearing by signing and returning the enclosed
24 declaration of ownership or right to keep the animal to
25 the officer providing the notice within two days
26 excluding weekends and holidays, of receipt of the notice.
27 (E) A statement that the cost of caring for and treating
28 any animal seized under this section is a lien on the
29 animal until the charges are paid, and that failure to
30 request or to attend a scheduled hearing shall result in
31 liability for this cost.

32 (2) The precapture hearing shall be conducted as soon
33 as practicable after receipt of the request. The county
34 humane society may authorize its own officer or
35 employee to conduct the hearing if the hearing officer is
36 the same person who requests the seizure or
37 impoundment of the animal.

38 (3) Failure of the owner or keeper, or his or her agent,
39 to request or to attend a scheduled hearing shall result in
40 a forfeiture of any right to a precapture hearing or right

1 to challenge his or her liability for costs incurred pursuant
2 to this section.

3 (4) The hearing officer, after the hearing, may affirm
4 the owner or keeper's right to custody of the animal or,
5 if reasonable grounds are established, may order the
6 seizure or impoundment of the animal for care and
7 treatment.

8 (g) Upon the conviction of a person charged with a
9 violation of this section, all animals lawfully seized or
10 impounded shall be adjudged by the court to be forfeited
11 and shall thereupon be awarded to the impounding
12 officer for proper disposition. A person convicted of a
13 violation of this section shall be liable to the impounding
14 officer for all costs of impoundment from the time of
15 seizure to the time of proper disposition.

16 SEC. 2. Notwithstanding Section 17610 of the
17 Government Code, if the Commission on State Mandates
18 determines that this act contains costs mandated by the
19 state, reimbursement to local agencies and school
20 districts for those costs shall be made pursuant to Part 7
21 (commencing with Section 17500) of Division 4 of Title
22 2 of the Government Code. If the statewide cost of the
23 claim for reimbursement does not exceed one million
24 dollars (\$1,000,000), reimbursement shall be made from
25 the State Mandates Claims Funds. Notwithstanding
26 Section 17580 of the Government Code, unless otherwise
27 specified in this act, the provisions of this act shall become
28 operative on the same date that the act takes effect
29 pursuant to the California Constitution.