

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 1, 2008
POSITION: Oppose
SPONSOR: CA Animal Control Directors Association, City of Los Angeles, Social Compassion in Legislation, State Humane Association of CA

BILL NUMBER: AB 1634
AUTHOR: L. Levine

BILL SUMMARY: Dogs and Cats; non-spayed/unneutered: civil penalties

This bill would increase fines for non-spayed or non-neutered dogs the first and second time the dog is impounded by a local agency and would require the dog to be spayed or neutered at the owner's expense the third time it is impounded. This bill would increase the fine for non-spayed or non-neutered cats the first time the cat is impounded by a local agency and would require the cat to be spayed or neutered at the owner's expense the second time it is impounded. It would allow local animal control agencies to cite owners of non-spayed or non-neutered dogs or cats that are the subject of a complaint, as specified. If cited, the owner shall pay the same fines as for impounded dogs or cats unless they provide written proof from a veterinarian that the animal was spayed or neutered. This bill would also prohibit the Controller from releasing payment to a local agency for costs arising from the current Animal Adoption mandate until the Controller determines they have complied with rabies control reporting requirements, as specified.

FISCAL SUMMARY

Requiring the owners of dogs and cats to pay increased fines and to pay for spaying and neutering procedures, regardless of whether the animal was impounded or not, may result in more animals being abandoned or surrendered. Should this occur and the animals are held by an animal control agency, the result would be an increase in the General Fund costs of the existing Animal Adoption mandate, which currently costs more than \$20 million annually to reimburse local agencies for euthanizing certain animals held for a specified period of time.

This bill could result in increased General Fund costs to the Controller to determine compliance with rabies reporting by local agencies before releasing payment to for costs arising from the current Animal Adoption mandate.

COMMENTS

The Department of Finance is opposed to this measure because by increasing costs for an existing state-mandated local program, it would result in General Fund costs that are not included in the 2008-09 Budget Bill.

Additionally, the requirement to withhold mandate reimbursement payments to local agencies who do not file rabies control reports, as specified, may be unconstitutional. Section 6 of Article XIII B of the California Constitution establishes the right of local governments to subvention of funds to reimburse for the costs of state mandated programs or higher levels of service. The current Animal Adoption mandate does not require the report cited in this bill as necessary for the Controller to release a payment. Further, Section 6 also requires the Legislature to fund or suspend the operation of a mandate in that year's Budget Act. This bill sets an additional criterion to receiving payment and notes that this does not suspend the operation of the mandate.

(Continued) Note, Hayden bill requires shelter records on intakes/dispositions, 3 year retention. Other local data can be obtained by public records demand on local jurisdiction if not voluntarily provided.

COMMENTS (continued)

Another concern related to this requirement is that the Controller does not have expertise in determining compliance with rabies reporting by local agencies. The provision of data by the Department of Public Health will not result in expertise.

Analyst/Principal Date Program Budget Manager Date
(0221) R. Baker Todd Jerue

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

L. Levine

July 1, 2008

AB 1634

Existing law requires local animal shelters to care for stray and impounded dogs or cats for six days before euthanizing them. Existing law requires fines for owners of non-spayed or non-neutered dogs and cats that are impounded as follows:

Enacted by 1998 AB 1856, then Assembly Member Edward Vincent. Underlying local fines vary. Some already include MSN with additional terms, such as time limits on successive offenses, administrative hearing, differences in offenses.

- First occurrence: \$35
- Second occurrence: \$50
- Third and subsequent occurrences: \$100

For dogs, this bill would increase the fine for the first occurrence to \$50 and the second occurrence to \$100. On the third occurrence the dog must be spayed or neutered at the owner's expense. For cats, the fine for the first occurrence would increase to \$50 and on the second occurrence the cat must be spayed or neutered at the owner's expense. Although the intent of this bill may be to decrease the population of homeless dogs and cats, an unfortunate result of the bill may actually be the opposite. First, local animal shelters or other agencies that impound animals will no longer receive fines for each additional "occurrence" because upon the third occurrence for dogs or the second occurrence for cats, the animal must be altered and no additional fines may be charged. Most likely, the shelter will pay the cost for this procedure up-front and be reimbursed upon retrieval of the animal by its owner. We estimate the cost of spaying or neutering a dog or cat ranges from \$50-\$200 depending on whether a veterinarian donates their time to the shelter (only expense being equipment and supplies) or the shelter contracts with a veterinarian for services. If an owner cannot or chooses not to reimburse the shelter for the cost to spay or neuter their pet and instead chooses to surrender their pet, then the shelter will not be reimbursed for that cost. This bill may drive up the rate of surrender and the rate of euthanasia, increasing the costs of the existing mandate. **Local ordinances in effect for years have dealt with these issues. Fines & surrender fees are legal obligations of identified owner.**

This bill is also unclear in its definition of the term "complaint." The bill states that the term shall not include an allegation of excessive noise or barking but also states that, in the case of dogs for example, a complaint also means any other provision of state law that relates to dogs, or a local animal control ordinance. Many local animal control ordinances deal with noises that animals make such as barking, creating the potential for a conflict within the definition of the term "complaint" in this bill. The intent of this bill may have been to define complaint to include observation by an official; however, there is concern that a complaint may be unsubstantiated. If a complaint is unsubstantiated, an official may still come to an owner's home to investigate the complaint. Non-impounded dogs and cats would be subject to the same civil penalties and spay and neuter requirements as impounded animals unless proof of the animals already being spayed or neutered can be provided within 14 days.

Operative wording is, "if cited"; complaint definition is merely descriptive of existing bases for citations.

| Code/Department Agency or Revenue Type | SO | (Fiscal Impact by Fiscal Year) | | | | | | | Fund Code |
|--|----|--------------------------------|-----------|--------------------|-----------|----|-----------|------|--------------|
| | LA | (Dollars in Thousands) | | | | | | | |
| | CO | PROP | 2008-2009 | | 2009-2010 | | 2010-2011 | | |
| | RV | 98 | FC | FC | FC | FC | | | |
| 0840/Controller | SO | No | ----- | See Fiscal Summary | ----- | | | 0001 | |
| 8994/St Mandates | SO | No | ----- | See Fiscal Summary | ----- | | | 0001 | |