

RESOLUTION NO. 82-41

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF RIDGECREST, ADOPTING THE PROVISIONS
OF CODE OF CIVIL PROCEDURE SECTION 1094.6

WHEREAS, the prompt resolution of administrative decisions is
of benefit to the public; and

WHEREAS, the State of California has authorized Cities, through
Code of Civil Procedure Section 1094.6 to adopt a policy of prompt
appeal procedure;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIDGECREST does
hereby resolve:

That the provisions of Section 1094.6 of the California Code of
Civil Procedure are applicable to the City of Ridgecrest.

APPROVED AND ADOPTED this 18th day of August, 1982,
by the following vote:

AYES: Vice-Mayor Webb, Councilmembers Bergens,
Rieger and Padgett

NOES: None

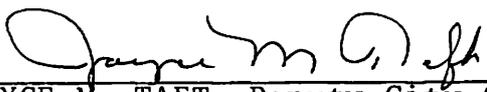
ABSENT: Mayor Cheshire

ABSTAIN: None



RON CHESHIRE, Mayor

ATTEST:


JOYCE M. TAFT, Deputy City Clerk

§ 1094.6. Judicial review; decisions of local agencies; petition; filing; time; record; decision and party defined; ordinance or resolution

(a) Judicial review of any decision of a local agency, other than school district, as the term local agency is defined in Section 54951 of the Government Code, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of this code only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

(b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is made. If there is such provision for reconsideration, the decision is final for the purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected.

(c) The complete record of the proceedings shall be prepared by the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 90 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted

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exhibits, all rejected exhibits in the possession of the local agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

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

(e) As used in this section, decision means adjudicatory administrative decision made, after hearing, suspending, demoting, or dismissing an officer or employee, revoking or denying an application for a permit or a license, or denying an application for any retirement benefit or allowance.

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

As used in this subdivision, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit or license has been revoked or whose application for a permit or license has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(g) This section shall be applicable in a local agency only if the governing board thereof adopts an ordinance or resolution making this section applicable. If such ordinance or resolution is adopted, the provisions of this section shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter.

(Added by Stats.1976, c. 276, p. 581, § 1.)

Forms

See West's California Code Forms, Civil Procedure.

Library References

Administrative Law and Procedure
§722.

C.J.S. Public Administrative Bodies and Procedure § 193.

Notes of Decisions

In general 1
Exhaustion of administrative remedies 2

1. In general

School board's unilateral freezing of teachers' salaries after beginning of new school year, while contract negotiations were pending, arguably was an unfair practice in violation of the Rodda Act so

that public employment relations board had exclusive jurisdiction to determine whether the unfair practice charges were justified; and, in view of teachers' failure to exhaust their administrative remedies under the Rodda Act, trial court erred in granting writ of mandate to compel superintendent of district and others to raise salaries of certain teachers. *Ador Valley Secondary Educators' Assn. v. Newlin* (1979) 151 Cal.Rptr. 721, 53 C.A.3d 251.