

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Mandamus to Review Agency Action: Selected Issues

June 1999

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN September 30, 1999.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

In 1997 the Law Revision Commission recommended comprehensive legislation to simplify the law governing judicial review of agency action. The legislation was not enacted. The Commission now identifies three discrete elements of the earlier recommendation that may be appropriate for separate enactment. These are:

(1) Abolish the case law rule that, if reconsideration of an administrative decision is authorized, a party must petition for reconsideration before seeking mandamus.

(2) Expand superior court venue for mandamus to review state agency action to include Sacramento County.

(3) Require a state agency to give notice to the parties of the calendar date of the last day for judicial review in an adjudication by the agency.

This recommendation was prepared pursuant to Resolution Chapter 91 of the Statutes of 1998.

MANDAMUS TO REVIEW AGENCY ACTION: SELECTED ISSUES

In 1997, the Law Revision Commission recommended a comprehensive revision of the law governing judicial review of agency action.¹ The legislative proposal resulting from that recommendation was not enacted.² Nonetheless, the Commission believes that a number of the reforms in that proposed legislation would be clear improvements in the law and would receive broad support. This recommendation selects three reforms from that proposal.

Reconsideration by Agency

The doctrine of exhaustion of administrative remedies requires that a litigant complete all federal, state, and local administrative remedies before coming to court or defending against administrative enforcement.³ The doctrine requires that a person seeking judicial review of agency action must first petition the agency for reconsideration of its decision if such a procedure is available.⁴

The case law requirement of a petition for reconsideration has been criticized by commentators,⁵ and has been called a trap for the unwary by a recent court of appeal decision.⁶ The doctrine requires an idle act⁷ and leads to unnecessary litigation.⁸

1. See *Judicial Review of Agency Action*, 27 Cal. L. Revision Comm'n Reports 1 (1997).

2. Senate Bill 209, 1997-98 legislative session.

3. Asimow, *Judicial Review: Standing and Timing*, 27 Cal. L. Revision Comm'n Reports 229, 254 (1997). Exhaustion of administrative remedies is not required if one of the exceptions applies. *Id.*

4. *Alexander v. State Personnel Bd.*, 22 Cal. 2d 198, 137 P.2d 433 (1943) (traditional mandamus, 4-2 decision with Justices Carter and Traynor dissenting). *Alexander* has been repudiated by the Legislature for the State Personnel Board and for agencies under the Administrative Procedure Act. See Gov't Code §§ 11523 (petition for rehearing not necessary in formal proceedings under APA), 19588 (petition for rehearing not necessary in State Personnel Board proceedings). See also Gov't Code § 11350 (right to declaratory relief to review state agency regulation not affected by failure to petition for reconsideration); 3 B. Witkin, *California Procedure Actions* § 309, at 398 (4th ed. 1996).

5. See, e.g., Asimow, *Judicial Review: Standing and Timing*, 27 Cal. L. Revision Comm'n Reports 229, 275 (1997) (a "request for reconsideration should never be required as a prerequisite to judicial review unless specifically provided by statute to the contrary"); 3 B. Witkin, *California Procedure Actions* § 309, at 398 (4th ed. 1996) (*Alexander* case called "extreme"); see also *infra* note 5. For statutes that do specifically require a petition for reconsideration or rehearing, see Lab. Code § 5901; Pub. Util. Code §§ 1731(b), 1732.

6. *Sierra Club v. San Joaquin Local Agency Formation Comm'n*, 64 Cal. App. 4th 1304, 75 Cal. Rptr. 2d 846, 851, *review granted*, 963 P.2d 1005, 78 Cal. Rptr. 2d 818 (1998) ("the rule in *Alexander* is incorrect and outmoded" and "presents a fitful trap for the unwary").

7. 3 Davis, *Administrative Law Treatise* § 20.09 n.7 (1958); *California Administrative Mandamus* § 2.30, at 52 (Cal. Cont. Ed. Bar, 2d ed. 1989).

8. *Alexander v. State Personnel Bd.*, 22 Cal. 2d 198, 204, 137 P.2d 433 (1943) (Traynor, J., dissenting).

The Commission recommends the case law requirement of a petition to the agency for reconsideration be abolished as a condition of judicial review by writ of mandamus.⁹

Venue to Review State Agency Action

Under existing law, both for administrative mandamus (to review administrative adjudication) and traditional mandamus (to review other forms of agency action), venue is determined under ordinary rules of civil practice.¹⁰ Thus venue for both forms of mandamus is in the superior court of the county where the cause of action arose.¹¹

There are several disadvantages to this venue rule. Most counties do not maintain a specialized writ department, and superior court judges in many counties do not have in depth experience in administrative law matters. In addition there may be a significant home town advantage for the petitioner in these types of cases.¹²

Most state agencies have their headquarters offices in Sacramento. The Superior Court for Sacramento County has broad expertise in judicial review proceedings. The Commission recommends that Sacramento County be added as another permissible venue for mandamus to review state agency action.

Notice of Last Day to Review State Agency Adjudication

In some adjudicative decisions, a local agency must give notice to the parties that the time within which judicial review must be sought is governed by Code of Civil Procedure Section 1094.6.¹³ When the California Real Estate Commissioner denies a claim against the department's recovery account, the Commissioner must give notice that the claimant must seek judicial review not later than six months after receipt of the notice.¹⁴ The notice is particularly helpful when a party is not represented by counsel.

9. This recommendation would not otherwise affect the requirement of exhaustion of administrative remedies or the statutes that specifically require a petition for reconsideration or rehearing, Labor Code Section 5901 (Workers' Compensation Appeals Board) and Public Utilities Code Sections 1731(b) and 1732 (Public Utilities Commission). The recommendation would not affect writs of review by which most actions of the WCAB and PUC are reviewed. See Lab. Code §§ 5950-5951, 5954, 6000; Pub. Util. Code §§ 1756, 1758.

10. California Administrative Mandamus § 8.16, at 269 (Cal. Cont. Ed. Bar, 2d ed. 1989); California Civil Writ Practice § 5.4, at 185 (Cal. Cont. Ed. Bar, 3d ed. 1997).

11. Code Civ. Proc. § 393(1)(b); *Duval v. Contractors State License Bd.*, 125 Cal. App. 2d 532, 271 P.2d 194 (1954); California Administrative Mandamus, § 8.16, at 269 (Cal. Cont. Ed. Bar, 2d ed. 1989); California Civil Writ Practice § 5.4, at 185 (Cal. Cont. Ed. Bar, 3d ed. 1997).

12. Asimow, *A Modern Judicial Review Statute to Replace Administrative Mandamus*, 27 Cal. L. Revision Comm'n Reports 403, 434-35 (1997).

13. Code Civ. Proc. § 1094.6(f).

14. Bus. & Prof. Code § 10471.5. Other statutes merely require that the agency give the party notice of the party's right to judicial review. See, e.g., Unemp. Ins. Code § 410; Veh. Code § 14401.

The Commission recommends a general notice provision that would require a state agency¹⁵ to give notice to the parties in an adjudicative proceeding of the calendar date of the last day for judicial review. Running of the applicable limitations period would be delayed until the notice is given, up to a maximum of 180 days after the date that would otherwise be applicable.¹⁶

15. A notice provision would be added to the formal hearing provisions of the APA, which may occasionally apply to a local agency. For example, school districts are governed by the APA with respect to certificated employees. Educ. Code §§ 44944, 44948.5, 87679.

16. For formal proceedings under the APA, the limitations period is provided by Government Code Section 11523 (later of 30 days after last day on which reconsideration can be ordered or 30 days after record is delivered). For the remaining state agency adjudications not conducted under the formal hearing provisions of the APA, the limitations periods are provided by statutes applicable to the particular agency. See, e.g., Code Civ. Proc. § 706.075 (90 days for withholding order for taxes); Food & Agric. Code §§ 59234.5, 60016 (30 days from notice of filing with court of notice of deficiency of assessment under commodity marketing program); Lab. Code §§ 1160.8 (30 days after ALRB decision), 5950 (45 days for decision of Workers' Compensation Appeals Board); Gov't Code §§ 3542 (30 days for PERB decisions), 19630 (one year for various state personnel decisions), 19815.8 (same), 65907 (90 days for decisions of zoning appeals board); Unemp. Ins. Code § 410 (six months for appeal of decision of Unemployment Insurance Appeals Board); Veh. Code § 14401(a) (90-days after notice of driver's license order); Welf. & Inst. Code § 10962 (one year after notice of decision of Department of Social Services). Because of the complexity of the applicable limitations period, proceedings under the California Environmental Quality Act (Pub. Res. Code §§ 21000-21177) would be expressly exempted from the notice requirement.

1 PROPOSED LEGISLATION

2 **Code Civ. Proc. § 1094.5 (amended). Administrative mandamus**

3 SECTION 1. Section 1094.5 of the Code of Civil Procedure is amended to read:

4 1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity
5 of any final administrative order or decision made as the result of a proceeding in
6 which by law a hearing is required to be given, evidence is required to be taken,
7 and discretion in the determination of facts is vested in the inferior tribunal,
8 corporation, board, or officer, the case shall be heard by the court sitting without a
9 jury. All or part of the record of the proceedings before the inferior tribunal,
10 corporation, board, or officer may be filed with the petition, may be filed with
11 respondent's points and authorities, or may be ordered to be filed by the court.
12 Except when otherwise prescribed by statute, the cost of preparing the record shall
13 be borne by the petitioner. Where the petitioner has proceeded pursuant to Section
14 68511.3 of the Government Code and the Rules of Court implementing that
15 section and where the transcript is necessary to a proper review of the
16 administrative proceedings, the cost of preparing the transcript shall be borne by
17 the respondent. Where the party seeking the writ has proceeded pursuant to
18 Section 1088.5, the administrative record shall be filed as expeditiously as
19 possible, and may be filed with the petition, or by the respondent after payment of
20 the costs by the petitioner, where required, or as otherwise directed by the court. If
21 the expense of preparing all or any part of the record has been borne by the
22 prevailing party, the expense shall be taxable as costs.

23 (b) The inquiry in such a case shall extend to the questions whether the
24 respondent has proceeded without, or in excess of jurisdiction; whether there was a
25 fair trial; and whether there was any prejudicial abuse of discretion. Abuse of
26 discretion is established if the respondent has not proceeded in the manner
27 required by law, the order or decision is not supported by the findings, or the
28 findings are not supported by the evidence.

29 (c) Where it is claimed that the findings are not supported by the evidence, in
30 cases in which the court is authorized by law to exercise its independent judgment
31 on the evidence, abuse of discretion is established if the court determines that the
32 findings are not supported by the weight of the evidence. In all other cases, abuse
33 of discretion is established if the court determines that the findings are not
34 supported by substantial evidence in the light of the whole record.

35 (d) Notwithstanding subdivision (c), in cases arising from private hospital boards
36 or boards of directors of districts organized pursuant to The Local Hospital District
37 Law, Division 23 (commencing with Section 32000) of the Health and Safety
38 Code or governing bodies of municipal hospitals formed pursuant to Article 7
39 (commencing with Section 37600) or Article 8 (commencing with Section 37650)
40 of Chapter 5 of Division 3 of Title 4 of the Government Code, abuse of discretion
41 is established if the court determines that the findings are not supported by

1 substantial evidence in the light of the whole record. However, in all cases in
2 which the petition alleges discriminatory actions prohibited by Section 1316 of the
3 Health and Safety Code, and the plaintiff makes a preliminary showing of
4 substantial evidence in support of that allegation, the court shall exercise its
5 independent judgment on the evidence and abuse of discretion shall be established
6 if the court determines that the findings are not supported by the weight of the
7 evidence.

8 (e) Where the court finds that there is relevant evidence which, in the exercise of
9 reasonable diligence, could not have been produced or which was improperly
10 excluded at the hearing before respondent, it may enter judgment as provided in
11 subdivision (f) remanding the case to be reconsidered in the light of that evidence;
12 or, in cases in which the court is authorized by law to exercise its independent
13 judgment on the evidence, the court may admit the evidence at the hearing on the
14 writ without remanding the case.

15 (f) The court shall enter judgment either commanding respondent to set aside the
16 order or decision, or denying the writ. Where the judgment commands that the
17 order or decision be set aside, it may order the reconsideration of the case in the
18 light of the court's opinion and judgment and may order respondent to take such
19 further action as is specially enjoined upon it by law, but the judgment shall not
20 limit or control in any way the discretion legally vested in the respondent.

21 (g) Except as provided in subdivision (h), the court in which proceedings under
22 this section are instituted may stay the operation of the administrative order or
23 decision pending the judgment of the court, or until the filing of a notice of appeal
24 from the judgment or until the expiration of the time for filing the notice,
25 whichever occurs first. However, no such stay shall be imposed or continued if the
26 court is satisfied that it is against the public interest; provided that the application
27 for the stay shall be accompanied by proof of service of a copy of the application
28 on the respondent. Service shall be made in the manner provided by Title 5
29 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section
30 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order
31 or decision of the agency shall not be stayed except upon the order of the court to
32 which the appeal is taken. However, in cases where a stay is in effect at the time of
33 filing the notice of appeal, the stay shall be continued by operation of law for a
34 period of 20 days from the filing of the notice. If an appeal is taken from the
35 granting of the writ, the order or decision of the agency is stayed pending the
36 determination of the appeal unless the court to which the appeal is taken shall
37 otherwise order. Where any final administrative order or decision is the subject of
38 proceedings under this section, if the petition shall have been filed while the
39 penalty imposed is in full force and effect, the determination shall not be
40 considered to have become moot in cases where the penalty imposed by the
41 administrative agency has been completed or complied with during the pendency
42 of the proceedings.

1 (h) (1) The court in which proceedings under this section are instituted may stay
2 the operation of the administrative order or decision of any licensed hospital or
3 any state agency made after a hearing required by statute to be conducted under
4 the provisions of the Administrative Procedure Act, as set forth in Chapter 5
5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
6 Government Code, conducted by the agency itself or an administrative law judge
7 on the staff of the Office of Administrative Hearings pending the judgment of the
8 court, or until the filing of a notice of appeal from the judgment or until the
9 expiration of the time for filing the notice, whichever occurs first. However, the
10 stay shall not be imposed or continued unless the court is satisfied that the public
11 interest will not suffer and that the licensed hospital or agency is unlikely to
12 prevail ultimately on the merits; and provided further that the application for the
13 stay shall be accompanied by proof of service of a copy of the application on the
14 respondent. Service shall be made in the manner provided by Title 5 (commencing
15 with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title
16 14 of Part 2.

17 (2) The standard set forth in this subdivision for obtaining a stay shall apply to
18 any administrative order or decision of an agency which issues licenses pursuant to
19 Division 2 (commencing with Section 500) of the Business and Professions Code
20 or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act.
21 With respect to orders or decisions of other state agencies, the standard in this
22 subdivision shall apply only when the agency has adopted the proposed decision
23 of the administrative law judge in its entirety or has adopted the proposed decision
24 but reduced the proposed penalty pursuant to subdivision (b) of Section 11517 of
25 the Government Code; otherwise the standard in subdivision (g) shall apply.

26 (3) If an appeal is taken from a denial of the writ, the order or decision of the
27 hospital or agency shall not be stayed except upon the order of the court to which
28 the appeal is taken. However, in cases where a stay is in effect at the time of filing
29 the notice of appeal, the stay shall be continued by operation of law for a period of
30 20 days from the filing of the notice. If an appeal is taken from the granting of the
31 writ, the order or decision of the hospital or agency is stayed pending the
32 determination of the appeal unless the court to which the appeal is taken shall
33 otherwise order. Where any final administrative order or decision is the subject of
34 proceedings under this section, if the petition shall have been filed while the
35 penalty imposed is in full force and effect, the determination shall not be
36 considered to have become moot in cases where the penalty imposed by the
37 administrative agency has been completed or complied with during the pendency
38 of the proceedings.

39 (i) Any administrative record received for filing by the clerk of the court may be
40 disposed of as provided in Sections 1952, 1952.2, and 1952.3.

41 (j) Effective January 1, 1996, this subdivision shall apply only to state
42 employees in State Bargaining Unit 5. For purposes of this section, the court is not

1 authorized to review any disciplinary decisions reached pursuant to Section
2 19576.1 of the Government Code.

3 (k) In a proceeding subject to review under this section, the agency shall, in the
4 order or decision or otherwise, give notice to the parties in substantially the
5 following form: "The last day to file a petition with a court under Section 1094.5
6 of the Code of Civil Procedure to review the order or decision is [date] unless the
7 time is extended as provided by law." This subdivision does not apply to review of
8 proceedings under the California Environmental Quality Act. The limitations
9 period for commencing a proceeding under this section begins to run from the later
10 of the following:

11 (1) The date or event otherwise provided by law.

12 (2) The date the notice is delivered, served, or mailed, but in no case later than
13 180 days after the date or event otherwise provided by law.

14 **Comment.** Subdivision (k) is added to Section 1094.5 to require notice to the parties of the last
15 date for review by administrative mandamus, and to delay commencement of the running of the
16 limitations period under the section until the date the notice is delivered, served, or mailed, but in
17 no case later than 180 days after the date or event otherwise provided by law. For the date or
18 event otherwise provided by law and for limitations periods that may be extended by this section,
19 see Bus. & Prof. Code §§ 4875.6, 7071.11, 10471.5, 12015.3, 19463; Code Civ. Proc. § 706.075;
20 Educ. Code § 94323; Fin. Code § 8055; Food & Agric. Code §§ 5311, 11512.5, 12999.4,
21 12999.5, 21051.3, 24007, 46007, 47025, 59234.5, 60016, 61899, 62665; Gov't Code §§ 8670.68,
22 8670.69.6, 31725, 54740.6, 66641.7; Health & Safety Code §§ 1793.15, 18024.4, 25398.10,
23 25514.6, 40864, 42316, 44011.6, 108900, 110915, 111855, 111940, 112615, 116700, 121270,
24 123340; Ins. Code §§ 791.18, 1065.4, 1780.63, 12414.19; Lab. Code § 1964; Pub. Res. Code §§
25 2774.2, 2774.4, 3333, 25534.2, 25901, 29602, 29603, 29772, 30801, 30802, 41721.5, 42854,
26 50000; Pub. Util. Code §§ 13575.7, 21675.2; Unemp. Ins. Code § 1243; Veh. Code §§ 3058,
27 3068, 13559, 14401; Water Code §§ 1126, 6357.4, 6461, 13330; Water Code Appendix § 65-4.8;
28 Welf. & Inst. Code §§ 10962, 11468.5, 11468.6, 14105.405, 14171, 19709.

29 **Code Civ. Proc. § 1098 (added). Reconsideration not required**

30 **SEC. 2.** Section 1098 is added to the Code of Civil Procedure to read:

31 1098. The right to a writ of mandate under this chapter to review action of a state
32 or local agency is not affected by failure to seek a rehearing or reconsideration
33 before the agency, unless a statute or regulation requires a petition for rehearing or
34 other administrative review.

35 **Comment.** Section 1098 is new. The section generalizes existing provisions that a petition for a
36 rehearing or reconsideration is not a prerequisite to judicial review of an adjudicative decision
37 under the Administrative Procedure Act or of a proceeding before the State Personnel Board. See
38 Gov't Code §§ 11523 (APA), 19588 (Personnel Board). This overrules any contrary case law
39 implication in cases not covered by the two Government Code sections. See *Alexander v. State*
40 *Personnel Board*, 22 Cal. 2d 198, 137 P.2d 433 (1943).

41 By its terms, Section 1098 applies only to a proceeding under this chapter, i.e., to writs of
42 mandamus. It does not apply to other forms of judicial review, such as a writ of review under the
43 Public Utilities Code. See Pub. Util. Code §§ 1756, 1758. Also Section 1098 is subject to statutes
44 that require a petition for reconsideration or rehearing. See, e.g., Lab. Code § 5901; Pub. Util.
45 Code §§ 1731(b), 1732.

1 **Code Civ. Proc. § 1099 (added). Venue in Sacramento County**

2 SEC. 3. Section 1099 is added to the Code of Civil Procedure to read:

3 1099. In addition to any other county authorized by law, Sacramento County is a
4 proper county for proceedings in superior court under this chapter to review state
5 agency action.

6 **Comment.** Section 1099 is new, and authorizes Sacramento County as an additional county for
7 administrative or traditional mandamus proceedings in superior court under this chapter to review
8 state agency action. The general rule is that venue is proper in the county where the cause of
9 action arose. See Sections 1109 (general rules of civil practice apply to proceedings under this
10 title), 393(1)(b) (venue); *Duval v. Contractors State License Bd.*, 125 Cal. App. 2d 532, 271 P.2d
11 194 (1954) (administrative mandamus).

12 **Gov't Code § 11518.3 (added). Notice of last day for judicial review**

13 SEC. 4. Section 11518.3 is added to the Government Code, to read:

14 11518.3. The agency shall, in the decision or otherwise, give notice to the parties
15 in substantially the following form:

16 "The last day to file a petition with a court for a writ of mandate to review the
17 decision is [date] unless the time is extended as provided by law."

18 **Comment.** Section 11518.3 is new, and is drawn from Code of Civil Procedure Section
19 1094.6(f). For provisions extending the time to petition for review, see Section 11523.

20 An agency notice that erroneously shows a date that is too soon does not shorten the period for
21 review, since the substantive rules in Section 11523 govern. If the notice erroneously shows a
22 date that is later than the last day to petition for review and the petition is filed before that later
23 date, the agency may be estopped to assert that the time has expired. See *Ginns v. Savage*, 61 Cal.
24 2d 520, 523-25, 393 P.2d 689, 39 Cal. Rptr. 377 (1964).

25 **Gov't Code § 11523 (amended). Judicial review**

26 SEC. 5. Section 11523 of the Government Code is amended to read:

27 11523. (a) Judicial review may be had by filing a petition for a writ of mandate
28 in accordance with the provisions of the Code of Civil Procedure, subject,
29 however, to the statutes relating to the particular agency. Except as otherwise
30 provided in this section, the petition shall be filed within the later of the following:

31 (1) 30 days after the last day on which reconsideration can be ordered .

32 (2) 30 days after the notice required by Section 11518.3 is delivered, served, or
33 mailed, but in no case later than 180 days after the last day on which
34 reconsideration can be ordered.

35 (b) The right to petition shall not be affected by the failure to seek
36 reconsideration before the agency.

37 (c) On request of the petitioner for a record of the proceedings, the complete
38 record of the proceedings, or the parts thereof as are designated by the petitioner in
39 the request, shall be prepared by the Office of Administrative Hearings or the
40 agency and shall be delivered to petitioner, within 30 days after the request, which
41 time shall be extended for good cause shown, upon the payment of the fee
42 specified in Section 69950 for the transcript, the cost of preparation of other
43 portions of the record and for certification thereof. Thereafter, the remaining

1 balance of any costs or charges for the preparation of the record shall be assessed
2 against the petitioner whenever the agency prevails on judicial review following
3 trial of the cause. These costs or charges constitute a debt of the petitioner which is
4 collectible by the agency in the same manner as in the case of an obligation under
5 a contract, and no license shall be renewed or reinstated where the petitioner has
6 failed to pay all of these costs or charges. The complete record includes the
7 pleadings, all notices and orders issued by the agency, any proposed decision by
8 an administrative law judge, the final decision, a transcript of all proceedings, the
9 exhibits admitted or rejected, the written evidence and any other papers in the
10 case. Where petitioner, within 10 days after the last day on which reconsideration
11 can be ordered, requests the agency to prepare all or any part of the record the time
12 within which a petition may be filed shall be extended until 30 days after its
13 delivery to him or her. The agency may file with the court the original of any
14 document in the record in lieu of a copy thereof. In the event that the petitioner
15 prevails in overturning the administrative decision following judicial review, the
16 agency shall reimburse the petitioner for all costs of transcript preparation,
17 compilation of the record, and certification.

18 **Comment.** Section 11523 is amended to make the limitations period for judicial review under
19 the section dependent on the giving of the notice required by Section 11518.3.
