

Introduced by Senator Alarcon

February 23, 2006

An act to add Section 65957.3 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1523, as amended, Alarcon. Development projects: superstore retailers.

(1) The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 6 months from the date of certification of an environmental impact report or within 3 months from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

This bill would in addition require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to cause an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations and employment in the same market area. ~~The proposed business superstore retailer would also be required to provide wage and benefit information for preparation of the economic report. The~~

bill would also require the governing body to provide an opportunity for public comment on the economic impact report. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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. It is the intent of the Legislature to promote
2 market competition and economic development in all
3 communities of the state and to address the concerns of the
4 state's small businesses as the superstore retail model enters the
5 state's communities. Therefore, the Legislature finds and
6 declares all of the following:

7 (a) It is in the interest of local governments to promote
8 economic development in their jurisdictions.

9 (b) In many municipalities, land use decisions are linked to
10 fiscal policy because governments receive a share of sales tax
11 revenues generated within their borders. California cities thus
12 often seek large sales tax revenue sources, such as superstores,
13 without taking into account all of the external economic effects
14 that superstores bring to communities.

15 (c) Transformations in the big box retail industry are rapidly
16 altering retail business nationwide, as California is learning
17 firsthand. The engine of this change is the retail format known as
18 the superstore—a big box retail store that also contains the
19 equivalent of a full-size grocery store, with the total floor space
20 often three to four times as large as that of a conventional
21 supermarket.

22 (d) As a result of the restructuring of retail business,
23 particularly the grocery sector in California, the following effects
24 may be seen: local grocers, who yield a greater community return
25 on investment, being driven out of business; less community

1 access to viable superstore alternatives; lower wages and benefits
2 paid to grocery workers by superstore retailers; and a host of
3 complex land use, traffic, and fiscal impacts.

4 (e) Land use decisions regarding superstores will fall to city
5 and county governments, even if the impacts will be regional as
6 well as local.

7 (f) Currently, local governments that desire to perform due
8 diligence for their constituents by performing an economic
9 analysis are placed at a disadvantage because a neighboring city
10 or county may not perform an economic analysis. Such a
11 situation may result in the shifting of sales tax and destruction of
12 the business community in a city or county that simply wanted to
13 study the impacts of the development project before making a
14 final approval.

15 SEC. 2. Section 65957.3 is added to the Government Code, to
16 read:

17 65957.3. (a) ~~(1)–As used in this section, “superstore retailer”~~
18 ~~means a business establishment greater than 100,000 square feet~~
19 ~~of gross buildable area that will generate sales or use tax revenue~~
20 ~~pursuant to the Bradley-Burns Uniform Local Sales and Use Tax~~
21 ~~Law (Part 1.5 (commencing with Section 7200) of Division 2 of~~
22 ~~the Revenue and Taxation Code), that contains more than 20,000~~
23 ~~stockkeeping units, and devotes more than 10 percent of its total~~
24 ~~sales floor area to the sale of nontaxable merchandise. *has the*~~
25 ~~same meaning as “big box retailer” as that term is defined in~~
26 ~~Section 53084.~~

27 ~~(2) “Sales floor area” means interior building space devoted to~~
28 ~~the sale of merchandise, but excluding restrooms, office space,~~
29 ~~storage space, automobile service areas, or open-air garden sales~~
30 ~~spaces. For the purpose of determining whether the total sales~~
31 ~~floor area of a single business establishment exceeds 100,000~~
32 ~~square feet, the aggregate square footage of all adjacent stores~~
33 ~~which share common check stands, management, a controlling~~
34 ~~ownership interest, warehouses, or distribution facilities shall be~~
35 ~~considered a business establishment.~~

36 (b) As used in this section, the term “market area” has the
37 same meaning as that term is defined in Section 53084.

38 (c) Prior to approving or disapproving a proposed
39 development project that would permit the construction of a

1 superstore retailer, a city, county, or city and county shall cause
2 to be prepared an economic impact report.

3 (1) The city, county, or city and county may prepare the
4 economic impact report or contract with a private entity, other
5 than the permit applicant, or another public agency for the
6 preparation of the report. The private entity or other public
7 agency shall be qualified by education, training, and experience
8 to conduct economic and fiscal analyses.

9 (2) The applicant for the development project shall pay the
10 city, county, or city and county for the costs of preparing the
11 economic impact report.

12 (3) The economic impact report shall include, but not be
13 limited to, all of the following:

14 (A) An assessment of the extent to which the proposed
15 superstore retailer will capture a share of retail sales in the city,
16 county, or city and county or market area.

17 (B) An assessment of how the construction and operation of
18 the proposed superstore retailer will affect the supply and
19 demand for retail space in the city, county, or city and county or
20 market area.

21 (C) An assessment of how the construction and operation of
22 the proposed superstore retailer will affect employment in the
23 city, county, or city and county or market area, including the
24 following:

25 (i) The number of persons employed in existing retail store in
26 the market area.

27 (ii) An estimate of the number of people who will likely be
28 employed by the proposed superstore.

29 (iii) An assessment of whether the proposed superstore will
30 result in a net increase or decrease in retail employment.

31 (iv) The effect on wages and benefits of employees of other
32 retail businesses.

33 (D) A projection of the costs of public services and public
34 facilities resulting from the construction and operation of the
35 proposed superstore retailer and the incidence of those costs.

36 (E) A projection of the public revenues resulting from the
37 construction and operation of the proposed superstore retailer and
38 the incidence of those revenues.

39 (F) An assessment of the effect that the construction and
40 operation of the proposed superstore retailer will have on retail

1 operations in the same market area, including the potential for
2 blight resulting from retail business closures.

3 (G) An assessment of the effect that the construction and
4 operation of the proposed superstore retailer will have on the
5 ability of the city, county, or city and county to implement the
6 goals contained in its general plan, including, but not limited to,
7 local policies and standards that apply to land use patterns, traffic
8 circulation, affordable housing, natural resources, including
9 water supplies, open-space lands, noise problems, and safety
10 risks.

11 (H) An assessment of the effect that the construction and
12 operation of the proposed superstore retailer will have on average
13 total vehicle miles traveled by retail customers in the same
14 market area.

15 (I) An assessment of the potential for long-term vacancy of the
16 property on which the superstore retailer is proposed in the event
17 that the business vacates the premises.

18 ~~(J) An assessment, provided by the superstore retailer, of wage
19 and benefits information including, but not limited to, the
20 following:~~

21 ~~(i) A schedule of anticipated wage levels for all types of
22 employment classifications.~~

23 ~~(ii) A schedule of anticipated benefit levels for all types of
24 employment classifications.~~

25 ~~(K) A comparison of wage and benefit levels to other similar
26 businesses in the city, county, or city and county or market area.~~

27 ~~(L) An assessment of the impact that the proposed superstore
28 retailer will have on community income levels in the city,
29 county, or city and county, or market area.~~

30 (d) Nothing in this section shall preclude a city, county, or city
31 and county from conducting additional studies of the effects of
32 the construction and operation of a proposed superstore retailer.

33 (e) At any regularly scheduled meeting or meetings of the city,
34 county, or city and county governing body, after the completion
35 of the economic impact report required by subdivision (b), and
36 30 days prior to the issuance of any entitlement, including, but
37 not limited to, a building permit, a city, county, or city and
38 county shall provide the opportunity for public comment on the
39 economic impact report and its findings.

1 (f) (1) The Legislature finds that the construction and
2 operation of a superstore retailer has land use, environmental,
3 economic, fiscal, and social equity effects that extend beyond the
4 boundaries of the city, county, or city and county in which it is
5 located.

6 (2) The Legislature finds that it is essential for the statewide
7 public health, safety, and welfare to require cities, counties, and
8 cities and counties to understand the potential spillover effects of
9 approving the construction and operation of superstore retailers.

10 (3) The Legislature further finds and declares that the review
11 and regulation of superstore retailers is a matter of statewide
12 concern and not merely a municipal affair, as that term is used in
13 Section 5 of Article XI of the California Constitution. Therefore,
14 this section shall apply to charter cities and to charter cities and
15 counties.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of
21 Section 17556 of the Government Code.