

Senate Bill No. 1523

Passed the Senate August 30, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1523, 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 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.

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

SECTION 1. It is the intent of the Legislature to promote market competition and economic development in all communities of the state and to address the concerns of the state's small businesses as the superstore retail model enters the state's communities. Therefore, the Legislature finds and declares all of the following:

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

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

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

(d) As a result of the restructuring of retail business, particularly the grocery sector in California, the following effects may be seen: local grocers, who yield a greater community return on investment, being driven out of business; less community access to viable superstore alternatives; lower wages and benefits paid to grocery workers by superstore retailers; and a host of complex land use, traffic, and fiscal impacts.

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

(f) Currently, local governments that desire to perform due diligence for their constituents by performing an economic analysis are placed at a disadvantage because a neighboring city or county may not perform an economic analysis. Such a situation may result in the shifting of sales tax and destruction of the business community in a city or county that simply wanted to

study the impacts of the development project before making a final approval.

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

65957.3. (a) As used in this section, “superstore retailer” means a business establishment greater than 100,000 square feet of gross buildable area that will generate sales or use tax revenue pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code).

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

(c) Prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, a city, county, or city and county shall cause to be prepared an economic impact report.

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

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

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

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

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

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

(i) The number of persons employed in existing retail stores in the market area.

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

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

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

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

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

(F) An assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations in the same market area, including the potential for blight resulting from retail business closures.

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

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

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

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

(e) At any regularly scheduled meeting or meetings of the city, county, or city and county governing body, after the completion of the economic impact report required by subdivision (b), and 30 days prior to the issuance of any entitlement, including, but not limited to, a building permit, a city, county, or city and

county shall provide the opportunity for public comment on the economic impact report and its findings.

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

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

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

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

Approved _____, 2006

Governor