

ASSEMBLY BILL

No. 728

Introduced by Assembly Member Muratsuchi

February 21, 2013

An act to amend Section 53094 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 728, as introduced, Muratsuchi. Land use: school siting.

Existing law authorizes the governing board of a school district, by a $\frac{2}{3}$ vote of its members, to render a city or county zoning ordinance inapplicable to a proposed use of school district property, except when the proposed use is for nonclassroom facilities.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 53094 of the Government Code is
- 2 amended to read:
- 3 53094. (a) Notwithstanding any other provision of this article,
- 4 this article does not require a school district to comply with the
- 5 zoning ordinances of a county or city unless ~~the~~ *both of the*
- 6 *following occur:*
- 7 (1) *The zoning ordinance makes provision for the location of*
- 8 *public schools and unless the.*
- 9 (2) *The city or county has adopted a general plan.*

1 (b) Notwithstanding subdivision (a), the governing board of a
2 school district, that has complied with the requirements of Section
3 65352.2 of this code and Section 21151.2 of the Public Resources
4 Code, by a vote of two-thirds of its members, may render a city
5 or county zoning ordinance inapplicable to a proposed use of
6 property by the school district. The governing board of the school
7 district may not take this action when the proposed use of the
8 property by the school district is for nonclassroom facilities,
9 including, but not limited to, warehouses, administrative buildings,
10 and automotive storage and repair buildings.

11 (c) The governing board of the school district shall, within 10
12 days, notify the city or county concerned of any action taken
13 pursuant to subdivision (b). If the governing board has taken such
14 an action, the city or county may commence an action in the
15 superior court of the county whose zoning ordinance is involved
16 or in which is situated the city whose zoning ordinance is involved,
17 seeking a review of the action of the governing board of the school
18 district to determine whether it was arbitrary and capricious. The
19 city or county shall cause a copy of the complaint to be served on
20 the board. If the court determines that the action was arbitrary and
21 capricious, it shall declare it to be of no force and effect, and the
22 zoning ordinance in question shall be applicable to the use of the
23 property by the school district.