

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, Muratsuchi. Land use: school-siting; ~~advertising displays.~~

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~~ *authorize the governing board of a school district, by a $\frac{2}{3}$ vote of its members, to render a city or county zoning ordinance that applies to an advertising display inapplicable to nonclassroom facilities when specified conditions are met.*

Because the bill would impose additional duties on local planning officials, this bill would create a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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 both of the following
 6 occur:
 7 (1) The zoning ordinance makes provision for the location of
 8 public schools.
 9 (2) The city or county has adopted a general plan.
 10 (b) Notwithstanding subdivision (a), the governing board of a
 11 school district, that has complied with the requirements of Section
 12 65352.2 of this code and Section 21151.2 of the Public Resources
 13 Code, by a vote of two-thirds of its members, may render a city
 14 or county zoning ordinance inapplicable to a proposed use of
 15 property by the school district. ~~The~~ *Except when an advertising*
 16 *display is subject to a city or county zoning ordinance and the*
 17 *conditions of subdivision (d) are met, the* governing board of the
 18 school district may not take this action when the proposed use of
 19 the property by the school district is for nonclassroom facilities,
 20 including, but not limited to, warehouses, administrative buildings,
 21 and automotive storage and repair buildings.
 22 (c) The governing board of the school district shall, within 10
 23 days, notify the city or county concerned of any action taken
 24 pursuant to subdivision (b). If the governing board has taken such
 25 an action, the city or county may commence an action in the
 26 superior court of the county whose zoning ordinance is involved
 27 or in which is situated the city whose zoning ordinance is involved,
 28 seeking a review of the action of the governing board of the school
 29 district to determine whether it was arbitrary and capricious. The
 30 city or county shall cause a copy of the complaint to be served on
 31 the board. If the court determines that the action was arbitrary and
 32 capricious, it shall declare it to be of no force and effect, and the

1 zoning ordinance in question shall be applicable to the use of the
2 property by the school district.

3 *(d) (1) After the vote requirement of subdivision (b) and the*
4 *notice requirement of subdivision (c) are met, the governing board*
5 *of a school district that intends to render a city or county zoning*
6 *ordinance inapplicable to an advertising display on school district*
7 *property used for nonclassroom facilities shall provide to the*
8 *applicable city or county agency responsible for land use planning*
9 *or zoning a notice of the school district's intention to render the*
10 *zoning ordinance inapplicable to this advertising display at least*
11 *45 days before the zoning ordinance may be deemed to be*
12 *inapplicable to it. If within this 45-day period, the city or county*
13 *agency delivers a written request for a meeting to discuss the*
14 *school district's intention and plan, the school district shall*
15 *schedule and conduct at least one meeting within 15 days of receipt*
16 *of the written request and shall deliver a notice to the city or county*
17 *agency that made the request of when the meeting is scheduled*
18 *before the zoning ordinance may be deemed inapplicable. After*
19 *the meeting is conducted, the governing board of the school district*
20 *may delay the date when the zoning ordinance becomes*
21 *inapplicable to the advertising display on school district property*
22 *used for nonclassroom facilities for not more than one year from*
23 *the date of the meeting. If the delay extends beyond one year, the*
24 *governing board shall provide an additional 45-day notice to the*
25 *applicable city or county agency and, if a meeting is requested,*
26 *conduct an additional meeting pursuant to this subdivision.*

27 *(2) A school district that intends to render a zoning ordinance*
28 *inapplicable to an advertising display shall comply with any other*
29 *ordinance applicable to this display and shall develop and adopt*
30 *a districtwide policy on the scope of content authorized for an*
31 *advertising display on the school district property.*

32 *SEC. 2. If the Commission on State Mandates determines that*
33 *this act contains costs mandated by the state, reimbursement to*
34 *local agencies and school districts for those costs shall be made*
35 *pursuant to Part 7 (commencing with Section 17500) of Division*
36 *4 of Title 2 of the Government Code.*