

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1344**

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**Introduced by Assembly Member Jones**

February 27, 2015

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An act to amend Section 53094 of, and to repeal and add Section 53097.3 of, the Government Code, relating to zoning ordinances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1344, as amended, Jones. County office of education: charter schools.

(1) 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 extend this authorization to the governing board of a county office of education.

(2) Existing law prohibits a school district from rendering a city or county ordinance inapplicable to a charter school facility, unless the charter school facility is physically located within the geographic jurisdiction of the school district.

This bill would also prohibit a county office of education from rendering a city or county ordinance inapplicable to a charter school facility, unless the charter school is physically located within the geographic jurisdiction of the county office of education. The bill would authorize, when a charter school facility is physically located within the geographic jurisdiction of a school district *or county office of education*, a charter school to make a written request for this school district *or county office of education* to render a city or county zoning

ordinance inapplicable to a proposed use of the facility by the charter school, as specified. The bill would authorize the school district *or county office of education* to require specified documentation and payment of a reasonable fee along with this request. The bill would require the school district *or county office of education* to notify the city or county concerned that the school district *or county office of education* has taken this action. The bill would authorize the charter school to request a county office of education to provide the notice if the school district does not within a specified time period. The bill would also authorize the charter school, if the county office of education does not provide the notice within a specified time period, to file an appeal with the State Board of Education, which would be required to notify the city or county concerned of the inapplicability of the city or county ordinance to the charter school facility. By increasing the duties of local officials, this bill would impose 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: yes.  
 State-mandated local program: 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 or county office of  
 5 education to comply with the zoning ordinances of a county or  
 6 city unless both of the following have occurred:  
 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 or county office of education, that has complied  
 12 with the requirements of Section 65352.2 of this code and Section  
 13 21151.2 of the Public Resources Code, by a vote of two-thirds of

1 its members, may render a city or county zoning ordinance  
2 inapplicable to a proposed use of property by the school district  
3 or county office of education. The governing board of the school  
4 district or county office of education may not take this action when  
5 the proposed use of the property by the school district or county  
6 office of education is for nonclassroom facilities, including, but  
7 not limited to, warehouses, administrative buildings, and  
8 automotive storage and repair buildings.

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

23 SEC. 2. Section 53097.3 of the Government Code is repealed.

24 SEC. 3. Section 53097.3 is added to the Government Code, to  
25 read:

26 53097.3. (a) Notwithstanding any other provision of this  
27 article, a school district or county office of education shall not  
28 render a city or county ordinance inapplicable to a charter school  
29 facility pursuant to this article, unless the facility is physically  
30 located within the geographical jurisdiction of that school district  
31 or county office of education.

32 (b) When a charter school facility is physically located within  
33 the geographic jurisdiction of a school district *or county office of*  
34 *education*, the charter school may make a written request for this  
35 school district *or county office of education* to render a city or  
36 county zoning ordinance inapplicable to a proposed use of the  
37 facility by the charter school only to the same extent to which ~~the~~  
38 *a* school district may render the zoning ordinance inapplicable to  
39 a use of property by the school district pursuant to Section 53094.  
40 *The notice of inapplicability of a zoning ordinance to a charter*

1 *school facility shall not exempt a charter school facility that is*  
2 *otherwise subject to compliance with the California Building*  
3 *Standards Code pursuant to subdivision (d) of Section 47610 of*  
4 *the Education Code from compliance with that provision.* Along  
5 with the written request, a school district *or county office of*  
6 *education* may require the charter school to provide the school  
7 district with any or all of the following:

8 (1) The address of the charter school facility or documentary  
9 evidence that the charter school facility is located within the  
10 geographic jurisdiction of the school district *or county office of*  
11 *education.*

12 (2) A deed, purchase agreement, lease, or similar contractual  
13 document to establish that the charter school has control over the  
14 charter school facility.

15 (3) Payment of a reasonable fee not to exceed five hundred  
16 dollars (\$500) to process the written request.

17 (c) (1) If the requirements of subdivision (b) are met, the school  
18 district *or county office of education* shall, within 60 days of  
19 receiving the written request and, if required, other items described  
20 in subdivision (b), *place the request for notice of zoning*  
21 *inapplicability on the agenda of a public meeting of its governing*  
22 *board, and if so approved by the board,* notify the city or county  
23 concerned in writing that the school district *or county board* has  
24 rendered a city or county ordinance inapplicable to a charter school  
25 facility that is physically located within the geographical  
26 jurisdiction of the school district *or county office of education.*

27 (2) *The governing board of the school district or county office*  
28 *of education shall approve the request for notice of zoning*  
29 *inapplicability unless the governing board of the school district*  
30 *or county office of education, in a public meeting, adopts written*  
31 *findings specific to the proposed site that the issuance of a notice*  
32 *of zoning inapplicability will result in the placement of a school*  
33 *facility in a location that will endanger the health and safety of*  
34 *the students of the charter school.*

35 (d) (1) *If a charter school requests that a school district issue*  
36 *a notice of zoning inapplicability on behalf of the charter school,*  
37 *and the school district does not provide the notice of inapplicability*  
38 *within 60 days pursuant to subdivision (c) and the charter school*  
39 *facility is physically located within the geographic jurisdiction of*  
40 *a county office of education, the charter school may subsequently*

1 request this county office of education to provide the notice of  
2 inapplicability to the city or county concerned, *under the same*  
3 *process and standard as described in subdivision (c)*. ~~If, after~~  
4 ~~receiving this request,~~

5 (2) *If the county office of education does not provide the notice*  
6 *of inapplicability within 60 days of receiving an original request*  
7 *from a charter school, or within 30 days of the receiving a request*  
8 *that was first submitted to a school district, the charter school may*  
9 *file an appeal with the State Board of Education.* ~~Notwithstanding~~

10 (3) *Notwithstanding any other provision of law, upon receipt*  
11 *of the appeal, the State Board of Education, within 120 days of*  
12 *receiving the written request shall place the request for notice of*  
13 *zoning inapplicability on the agenda of a public meeting of its*  
14 *governing board, and if approved by the boards, shall notify the*  
15 *city or county concerned of the inapplicability of the city or county*  
16 *ordinance to the charter school facility. facility, under the same*  
17 *process and standards as required of the school district and county*  
18 *office of education as described in subdivision (c).*

19 (e) A charter school that makes a written request to render a  
20 city or county zoning ordinance inapplicable to the proposed use  
21 of a facility shall not be required to make any warranties, except  
22 that the facility will be used for classrooms and is in the jurisdiction  
23 of the school district or county office of education or provide  
24 indemnification, bonds, insurance coverage, or any other type of  
25 financial assurance as a condition for rendering an ordinance  
26 inapplicable to a charter school facility.

27 SEC. 4. If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.