GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] *(Title 5 added by Stats. 1949, Ch. 81.)*

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] *(Division 2 added by Stats. 1949, Ch. 81.)*

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] *(Part 1 added by Stats. 1949, Ch. 81.)*

CHAPTER 1. General [53000 - 53170] *(Chapter 1 added by Stats. 1949, Ch. 81.)*

ARTICLE 5. Regulation of Local Agencies by Counties and Cities [53090 - 53097.5] *(Article 5 added by Stats. 1959, Ch. 2110.)*

53090. As used in this article:

(a) “Local agency” means an agency of the state for the local performance of governmental or proprietary function within limited boundaries. “Local agency” does not include the state, a city, a county, a rapid transit district, or a rail transit district whose board of directors is appointed by public bodies or officers or elected from election districts within the area comprising the district, or a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code.

(b) “Building ordinances” means ordinances of a county or city regulating building and construction and removal of buildings, including ordinances relating to the matters set forth in Section 38660 and similar matters, and including ordinances relating to building permits and building inspection.

(Amended by Stats. 2002, Ch. 341, Sec. 1. Effective January 1, 2003.)

53091. (a) Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated.

(b) On projects for which state school building aid is requested by a local agency for construction of school facilities, the county or city planning commission in which the local agency is located shall consider in its review for approval information relating to attendance area enrollment, adequacy of the site upon which the construction is proposed, safety features of the site and proposed construction, and present and future land utilization, and report thereon to the State Allocation Board. If the local agency is situated in more than one city or county or partly in a city and partly in a county, the local agency shall comply with the ordinances of each county or city with respect to the territory of the local agency that is situated in the particular county or city, and the ordinances of a county or city shall not be applied to any portion of the territory of the local agency that is situated outside the boundaries of the county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district or the state when acting under the State Contract Act (Article 1 (commencing with Section 10100) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code) to comply with the building ordinances of a county or city.

(c) Each local agency required to comply with building ordinances and zoning ordinances pursuant to this section and each school district whose school buildings are inspected by a county or city pursuant to Section 53092 shall be subject to the applicable ordinances of a county or city requiring the payment of fees, but the amount of those fees charged to a local agency or school district shall not exceed the amount charged under the ordinance to nongovernmental agencies for the same services or permits.

(d) Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy by a local agency.

(e) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, or for the production or generation of electrical energy, facilities that are subject to Section 12808.5 of the Public Utilities Code, or electrical substations in an electrical transmission system that receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency, if the zoning ordinances make provision for those facilities.

(Amended by Stats. 2002, Ch. 267, Sec. 1. Effective January 1, 2003.)

53092. The State Director of Public Works, upon recommendation of the Division of Architecture, may delegate to any county or city all or part of the powers and duties of the Division of Architecture relating to the inspection of construction of school buildings of school districts within the county or city if, as determined by the Division of Architecture, the county or city has an adequate building inspection program. No delegation under this section shall become effective without the consent of the legislative body of the county or city to which the delegation is made.

(Added by Stats. 1959, Ch. 2110.)

53094. (a) Notwithstanding any other provision of this article, this article does not require a school district to comply with the zoning ordinances of a county or city unless the zoning ordinance makes provision for the location of public schools and unless the city or county has adopted a general plan.

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

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

(Amended by Stats. 2001, Ch. 396, Sec. 2. Effective January 1, 2002.)

53095. The provisions of this article shall prevail over Sections 17215 and 81035 of the Education Code and over Section 65402 of the Government Code.

(Amended by Stats. 2000, Ch. 1058, Sec. 119. Effective January 1, 2001.)

53096. (a) Notwithstanding any other provision of this article, the governing board of a local agency, by vote of four-fifths of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property if the local agency at a noticed public hearing determines by resolution that there is no feasible alternative to its proposal. The governing board may not render a zoning ordinance inapplicable to a proposed use of property when the proposed use of the property by the local agency is for facilities not related to storage or transmission of water or electrical energy, including, but not limited to, warehouses, administrative buildings or automotive storage and repair buildings. The governing board of a local agency may make these determinations at the time it approves an environmental impact report on its proposal required by Division 13 (commencing with Section 21000) of the Public Resources Code. Mailed notice of the public hearing shall be provided at least 10 days prior to the hearing, to the owners of all property within 300 feet of the location of the proposed facility and a notice shall be posted in a conspicuous place at the proposed site of the facility. If mailed notice as required above would result in notice to more than 250 persons, as an alternative to mailed notice, notice may be given by placing a display advertisement of at least one-fourth page in a newspaper of general circulation within the area affected by the proposed facility and by posting the notice in a conspicuous place at the proposed site of the facility.

(b) The board shall, within 10 days, notify the city or county, whose zoning ordinance has been rendered inapplicable under subdivision (a), of its action. If the governing board has taken this action, the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of the action of the governing board to determine whether it was supported by substantial evidence. The evidence before the court shall include the record of the proceedings before the city, county, and district. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that the action was not supported by substantial evidence, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by the local agency.

(c) “Feasible” as used in this section means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(Amended by Stats. 2002, Ch. 267, Sec. 2. Effective January 1, 2003.)

53097. Notwithstanding any other provisions of this article, the governing board of a school district shall comply with any city or county ordinance (1) regulating drainage improvements and conditions, (2) regulating road improvements and conditions, or (3) requiring the review and approval of grading plans as these ordinance provisions relate to the design and construction of onsite

improvements which affect drainage, road conditions, or grading, and shall give consideration to the specific requirements and conditions of city or county ordinances relating to the design and construction of offsite improvements. If a school district elects not to comply with the requirements of city or county ordinances relating to the design and construction of offsite improvements, the city or county shall not be liable for any injuries or for any damage to property caused by the failure of the school district to comply with those ordinances.

(Amended by Stats. 1990, Ch. 275, Sec. 2.)

53097.3. Notwithstanding any other provision of this article, no school district may render a city or county ordinance inapplicable to a charter school facility pursuant to this article, unless the facility is physically located within the geographical jurisdiction of that school district.

(Added by Stats. 2002, Ch. 935, Sec. 17. Effective January 1, 2003.)

53097.5. A county or city may inspect school buildings, as defined in Section 39141 of the Education Code, pursuant to guidelines adopted pursuant to Section 16500 of the Health and Safety Code or pursuant to any local ordinance regulating substandard conditions in buildings used for human habitation. The results of the inspections shall be forwarded to the office of the State Architect.

(Added by Stats. 1989, Ch. 953, Sec. 1.)