



ACA 7 (Muratsuchi) Working Group
Wednesday, October 27, 2021
10:00 am – 12:00 pm

Register for this meeting:

<https://zoom.us/meeting/register/tJcqcOmpqz4vE9wJdasg1pGD4cKay5bYlpld>

After registering, you will receive a confirmation email containing information about joining the meeting.

AGENDA

- I. Welcome and Introductions**
Chair, Marshall Goodman, Council Member, City of La Palma
Vice Chair, David Pollock, Council Member, City of Moorpark
- II. Opening Remarks**
President Cindy Silva, Council Member, City of Walnut Creek
- III. Establish Guiding Principles for Constitutional Land-Use Reform**
Jason Rhine, League of California Cities
Derek Dolfie, League of California Cities
- IV. Review ACA 7 (Muratsuchi) Municipal Affairs. Land Use and Zoning**
Jason Rhine, League of California Cities
- V. Review Initiative 21-0016 Local Land Use. Amended October 1, 2021**
Jason Rhine, League of California Cities
- VI. Public Comment**
- VII. Adjourn**

**ACA 7 WORKING GROUP
October 27, 2022**

Staff: Jason Rhine, Assistant Director, Legislative Affairs
Derek Dolfie, Lobbyist, Legislative Affairs

ACA 7 (Muratsuchi) Local Government Police Power. Municipal Affairs. Land Use and Zoning. (Full Text)

Bill Summary:

This measure would provide that with regard to the zoning or use of land within the boundaries of a county or city, local ordinances, regulations, or charter provisions, would prevail over state law if a conflict exists.

Bill Description:

ACA 7 is an Assembly Constitutional Amendment that, if approved by the voters, would provide the following:

- A county or city ordinance or regulation enacted under the police power that regulates the zoning or use of land within the boundaries of the county or city would prevail over conflicting general laws, with specified exceptions; and
- A city charter provision, or an ordinance or regulation adopted pursuant to a city charter, that regulates the zoning or use of land within the boundaries of the city is deemed to address a municipal affair and would prevail over a conflicting state statute, with specified exceptions.

Specified exceptions are as follows:

- The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute;
- The siting of a power generating facility capable of generating more than 50 megawatts of electricity; and
- The development or construction of a water or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed use.

Background:

There are two types of cities, charter cities and general law cities. Of California's 482 cities, 108 of them are charter cities. The Constitution grants both types of cities the power to adopt ordinances to protect the public's health, safety and welfare. This grant is called the "police power." The Constitution grants charter cities the additional power to adopt ordinances affecting "municipal affairs." This power, commonly referred to as "home rule" is based on the principle that a city, rather than the state, is in the best position to identify and satisfy the needs of the local community.

An ordinance adopted under the police power cannot be enforced if it "conflicts" with state law. State law is said to "preempt" the local ordinance. An ordinance adopted

under the municipal affairs power cannot be enforced if it affects a “matter of statewide concern.” The subjects that have been “preempted” and the subjects that have been identified as “matters of statewide concern” have changed over the years with changing economic, social, and political circumstances.

Since the 1960s, the state has enacted laws that have restricted local land use and zoning. These laws include the Fair Employment and Housing Act (FEHA), Housing Element, Housing Accountability Act (HAA), density bonus, Permit Streamlining Act, Accessory Dwelling Units, California Environmental Quality Act (CEQA) and many more.

Fiscal Impact:

There would be no direct fiscal impact to cities.

Existing Cal Cities Policy:

Vision

To be recognized and respected as the leading advocate for the common interests of California's cities.

Mission Statement

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

We Believe

- Local self-governance is the cornerstone of democracy.
- Our strength lies in the unity of our diverse communities of interest.
- In the involvement of all stakeholders in establishing goals and in solving problems.
- In conducting the business of government with transparency, openness, respect, and civility.
- The spirit of honest public service is what builds communities.
- Open decision-making that is of the highest ethical standards honors the public trust.
- Cities are vital to the strength of the California economy.
- The vitality of cities is dependent upon their fiscal stability and local autonomy.
- The active participation of all city officials increases the League's effectiveness.
- Partnerships and collaborations are essential elements of focused advocacy and lobbying.
- Ethical and well-informed city officials are essential for responsive, visionary leadership and effective and efficient city operations.

Zoning

Cal Cities believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community. Cal Cities opposes legislation that seeks to limit local authority over parking requirements.

Housing Element

Housing issues should be addressed in the general plan as other planning issues are. The housing element should be prepared for the benefit of local governments and should have equal status with the other elements of the general plan.

Subdivision Map Act

Cal Cities supports maximizing local control over subdivisions and public improvement financing. Discretion over the conditions and length of subdivision and parcel maps should be retained by cities.

Annexation and Incorporation

Cal Cities supports strengthening city control over urban boundaries. Sphere of Influence law should be modified to ban county development and to allow cities to annex logical growth. The Revenue and Taxation Code should not allow counties to block annexations in exchange for unreasonable property tax sharing agreements. In addition, cities should have expanded authority over adjacent lands outside of their sphere of influence regardless of jurisdictional lines so long as the land is not within another city's sphere. Cities should not be required to incur costs for planning to meet infrastructure needs of unincorporated areas or leveraged to annex areas which would result in unfunded costs. Cal Cities supports facilitating the incorporation of cities that have met procedural requirements and voter approval. Cal Cities opposes efforts by the Legislature to disincorporate a city for any reason, unless requested by the affected city.

California Environmental Quality Act (CEQA)

Cal Cities has extensive existing policy regarding CEQA. Most of this policy is highly specific to the implementation of the Act. [Click here](#) to review the full policy.

Comments:

ACA 7 is an Assembly Constitutional Amendment that requires a two-thirds vote in both legislative houses in order to be placed on the ballot for the November 2022 statewide general election. If voters approve the measure, by a simple majority vote, the California State Constitution will be amended.

ACA 7 encompasses a broad swath of state law. The *State Planning and Zoning Law* which stretches from Government Code 65000 - 66301 includes the following state "general laws" relating to "zoning" and "use of land:"

- Prohibition on discrimination (65008): An action taken by a city that denies to any individual or group of individuals..." any land use" is unlawful. [This statute is used to challenge city's land use decisions that do not provide sufficient affordable housing, etc.]
- Mandated elements of general plan (65302): Land use element; circulation; housing; conservation; open-space; noise; safety; environmental justice. Mandated reporting to the Department of Housing and Community Development regarding implementation of plan (65400). Housing element requirements such as affirmatively furthering fair housing (65583(c)(10)); promoting and affirmatively further fair housing opportunities throughout the community (65583(c)(5); conserve and improve the condition of the existing affordable housing stock (65593(c)(4); zone for emergency shelters (65583(d)).
- Housing Accountability Act (65589.5).

- Limitation on inclusionary rental housing ordinance (65850.01).
- ADUs/JADUs (65852.2, 65852.22).
- Requirement to allow rebuilding of multifamily dwelling destroyed by fire (65852.25).
- Requirement to zone sufficient land for housing (65913.1); prohibition on subdivision standards that preclude housing for all economic segments of the community (65913.2).
- SB 35 ministerial approval of housing on certain infill sites (65913.4).
- Density bonus (65915).

Another area of law impacted by ACA 7 is the California Environmental Quality Act (CEQA). While CEQA is not in the code sections listed above, compliance with CEQA is an integral part of "regulating the zoning or use of land."

It is important to note that under ACA 7, a city could not simply ignore these state laws. Rather, ACA 7 would allow a city to adopt ordinances that "conflict" with these laws, thus allowing the ordinances to prevail over state law.

Finally, given the broad scope of ACA 7, it is possible that the measure might be a "revision" rather than an "amendment" to the Constitution. Although the voters can amend the Constitution by an initiative, a "revision" of the Constitution may be accomplished only by convening a constitutional convention and then obtaining voter approval of what the convention proposes. The idea is that "comprehensive changes" to the Constitution require more formality, discussion and deliberation than is available in the initiative process [Raven v. Deukmejian (1990) 52 Cal.3d 335].

Assembly Constitutional Amendment

No. 7

Introduced by Assembly Member Muratsuchi
(Principal coauthor: Senator Glazer)

March 16, 2021

Assembly Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 7 of, and adding Section 5.5 to, Article XI thereof, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

ACA 7, as introduced, Muratsuchi. Local government: police power: municipal affairs: land use and zoning.

The California Constitution authorizes a city or county to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, which is also known as the police power. Existing law also authorizes a county or city to adopt a charter, as provided. The California Constitution authorizes a city governed under a charter make and enforce all ordinances and regulations in respect to municipal affairs and provides that, with respect to municipal affairs, a city charter supersedes all inconsistent laws. Under the California Constitution, the power to regulate land use is within the scope of the police power, and is also generally considered to be a municipal affair, for purposes of these provisions.

This measure would provide that a county or city ordinance or regulation enacted under the police power that regulates the zoning or use of land within the boundaries of the county or city would prevail over conflicting general laws, with specified exceptions. The measure, in the event of the conflict with a state statute, would also specify that

a city charter provision, or an ordinance or regulation adopted pursuant to a city charter, that regulates the zoning or use of land within the boundaries of the city is deemed to address a municipal affair and prevails over a conflicting state statute, except that the measure would provide that a court may determine that a city charter provision, ordinance, or regulation addresses either a matter of statewide concern or a municipal affair if it conflicts with specified state statutes. The measure would make findings in this regard and provide that its provisions are severable.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2021–22 Regular
3 Session commencing on the seventh day of December 2020,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 First—That the people of the State of California find and declare
8 all of the following:

9 (a) The circumstances and impacts of local land use decisions
10 vary greatly across the state from locality to locality.

11 (b) The infrastructure required to maintain appropriate levels
12 of public services, including police and fire services, parklands
13 and public open spaces, transportation, schools, and sewers, also
14 varies greatly across the state from locality to locality.

15 (c) Land use decisions made by local officials seek to balance
16 development with the economic, environmental, and social needs
17 of the particular communities served by those local officials.

18 (d) Thus, it is in the best interests of the state for these complex
19 decisions to be made at the local level to ensure that the specific,
20 unique characteristics, constraints, and needs of those communities
21 are properly analyzed and addressed.

22 (e) Gentrification of housing adjacent to public transportation
23 will reduce or eliminate the availability of very low income housing
24 near public transit.

25 (f) The Legislature cannot properly assess the impacts upon
26 each community of sweeping land use rules and zoning regulations
27 that apply across the state and, as a result, do great harm to many
28 local communities with differing circumstances and concerns.

1 (g) Development within a community should not be controlled
2 by state laws that may or may not address the needs of, and the
3 impacts upon, that local community.

4 (h) Numerous state laws have been enacted, and continue to be
5 proposed, that eliminate or erode local control over the type and
6 character of local development.

7 (i) The purpose of this measure is to ensure that all decisions
8 regarding local land use controls and zoning regulations are made
9 within the affected communities in accordance with local law,
10 while still allowing either local or state law to control, as it
11 otherwise would, in those instances where state and local law
12 conflict regarding the coastal zone, the siting of a power plant that
13 can generate more than 50 megawatts of electricity, or the
14 development or construction of a water or transportation
15 infrastructure project for which the Legislature declares why the
16 project addresses a matter of statewide concern and is in the best
17 interests of the state. For purposes of this measure, it is the intent
18 that a transportation infrastructure project not include a
19 transit-oriented development project that is residential, commercial,
20 or mixed used.

21 Second—That Section 5.5 is added to Article XI thereof, to
22 read:

23 SEC. 5.5. (a) Except as provided in subdivision (b), in the
24 event of a conflict with a state statute, a city charter provision, or
25 an ordinance or a regulation adopted pursuant to a city charter,
26 that regulates the zoning or use of land within the boundaries of
27 the city shall be deemed to address a municipal affair within the
28 meaning of Section 5 and shall prevail over a conflicting state
29 statute.

30 (b) A city charter provision, or an ordinance or a regulation
31 adopted pursuant to a city charter, may be determined by a court
32 of competent jurisdiction, in accordance with Section 5, to address
33 either a matter of statewide concern or a municipal affair if that
34 provision, ordinance, or regulation conflicts with a state statute
35 with regard to any of the following:

36 (1) The California Coastal Act of 1976 (Division 20
37 (commencing with Section 30000) of the Public Resources Code),
38 or a successor statute.

39 (2) The siting of a power generating facility capable of
40 generating more than 50 megawatts of electricity.

1 (3) The development or construction of a water or transportation
 2 infrastructure project for which the Legislature has declared in
 3 statute the reasons why the project addresses a matter of statewide
 4 concern and is in the best interests of the state. For purposes of
 5 this paragraph, a transportation infrastructure project does not
 6 include a transit-oriented development project, whether residential,
 7 commercial, or mixed use.

8 (c) The provisions of this section are severable. If any provision
 9 of this section or its application is held invalid, that invalidity shall
 10 not affect other provisions or applications that can be given effect
 11 without the invalid provision or application.

12 Third—That Section 7 of Article XI thereof is amended to read:

13 SEC. 7. (a) A county or city may make and enforce within
 14 its limits all local, police, sanitary, and other ordinances and
 15 regulations ~~not that are not, except as provided in subdivision (b),~~
 16 in conflict with general laws.

17 (b) (1) *A county or city ordinance or regulation that regulates*
 18 *the zoning or use of land within the boundaries of the county or*
 19 *city shall prevail over conflicting general laws, except for the*
 20 *following:*

21 (A) *An ordinance or regulation that conflicts with the California*
 22 *Coastal Act of 1976 (Division 20 (commencing with Section 30000)*
 23 *of the Public Resources Code), or a successor statute.*

24 (B) *An ordinance or regulation that addresses the siting of a*
 25 *power generating facility capable of generating more than 50*
 26 *megawatts of electricity.*

27 (C) *An ordinance or regulation that addresses the development*
 28 *or construction of a water or transportation infrastructure project*
 29 *for which the Legislature has declared in statute the reasons why*
 30 *the project addresses a matter of statewide concern and is in the*
 31 *best interests of the state. For purposes of this subparagraph, a*
 32 *transportation infrastructure project does not include a*
 33 *transit-oriented development project, whether residential,*
 34 *commercial, or mixed use.*

35 (2) *The provisions of this subdivision are severable. If any*
 36 *provision of this subdivision or its application is held invalid, that*
 37 *invalidity shall not affect other provisions or applications that can*
 38 *be given effect without the invalid provision or application.*

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**ACA 7 WORKING GROUP
October 27, 2022**

Staff: Jason Rhine, Assistant Director, Legislative Affairs
Derek Dolfie, Lobbyist, Legislative Affairs

Initiative 21-0016 – Local Land Use [\(FULL TEXT\)](#)

This measure is nearly identical to ACA 7 (Muratsuchi). Please see Attachment A for a detailed analysis.

However, it is important to note three key differences between Initiative 21-0016 and ACA 7. Initiative 21-0016 was recently amended to add the following:

- Declares the purpose of the measure is to ensure that all decisions regarding local land use controls, including zoning law and regulations, are made by the affected communities in accordance with applicable law, including but not limited to California Environmental Quality Act (CEQA), California Fair Employment and Housing Act, the prohibitions against discrimination, and affirmatively furthering fair housing.
- Prohibits modification to appropriations for state-funded programs, and no state grant applications or funding shall be denied as a result of the application of this constitutional amendment. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize these provisions.
- Prohibits a city or county from superseding or otherwise interfering with any voter-approved local initiative pertaining to land use or zoning restrictions.

21-0016

Amdt. # 1

To: The Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street, 17th Floor
Sacramento, CA 95814
(916) 445-4752 | www.oag.ca.gov

RECEIVED

OCT 1 2021

Re: Initiative 21-0016 (Local Land Use) - Amendment

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find amendments to Initiative No. 21-0016. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed. I am a proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language. Thank you for your time and attention processing my request.

Please direct all inquiries and correspondence regarding this proposed initiative to:

John Heath
(323) 248-1699
Jheath@uhawhvp.org



Bill Brand

Date: 9-28-21

To: The Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street, 17th Floor
Sacramento, CA 95814
(916) 445-4752 | www.oag.ca.gov


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Please direct all inquiries and correspondence regarding this proposed initiative to:

John Heath
(323) 248-1699
jheath@uhawhvp.org



John Heath

Date: *Sept. 28, 2021*

To: The Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street, 17th Floor
Sacramento, CA 95814
(916) 445-4752 | www.oag.ca.gov

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Please direct all inquiries and correspondence regarding this proposed initiative to:

John Heath
(323) 248-1699
jheath@uhawhvp.org



Peggy Huang

Date: *Sept. 28, 2021*

To: The Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street, 17th Floor
Sacramento, CA 95814
(916) 445-4752 | www.oag.ca.gov


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Please direct all inquiries and correspondence regarding this proposed initiative to:

John Heath
(323) 248-1699
JHeath@uhawhvp.org



Jovita Mendoza

Date: 9/29/21

To: The Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street, 17th Floor
Sacramento, CA 95814
(916) 445-4752 | www.oag.ca.gov


Re: initiative 21-0016 (Local Land Use) - Amendment

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find amendments to Initiative No. 21-0016. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed. I am a proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language. Thank you for your time and attention processing my request.

Please direct all inquiries and correspondence regarding this proposed initiative to:

John Heath
(323) 248-1699
Jheath@uhawhvp.org



Dennis Richards

Date: SEPTEMBER 29, 2021

SECTION 1. The people of the State of California find and declare all of the following:

- (a) The circumstances and environmental impacts of local land use decisions vary greatly across the state from locality to locality.
- (b) The infrastructure required to maintain appropriate levels of public services, including police and fire services, parklands and public open spaces, transportation, water supply, schools, and sewers varies greatly across the state from locality to locality.
- (c) Land use decisions made by local officials must balance development with public facilities and services while addressing the economic, environmental, and social needs of the particular communities served by those local officials.
- (d) Thus, it is in the best interests of the state and local communities for these complex decisions to be made at the local level to ensure that the specific, unique characteristics, constraints, and needs of those communities are properly analyzed and addressed.
- (e) Gentrification of housing adjacent to public transportation will reduce or eliminate the availability of low or very low income housing near public transit, resulting in the loss of access by low or very low income persons to public transit, declines in public transit ridership, and increases in vehicle miles travelled.
- (f) The State Legislature cannot properly assess the impacts upon each community of sweeping centralized and rigid state land use rules and zoning regulations that apply across the state without regard to community impacts and, as a result, statewide land use and zoning will do great harm to local communities with differing circumstances and concerns.
- (g) Community development should not be controlled by state planners, but by local governments that know and can address the needs of, and the impacts upon, local communities. Local initiatives approved by voters pertaining to land use and zoning restrictions should not be nullified or superseded by the actions of any local or state legislative body.
- (h) Numerous state laws that target communities for elimination of zoning standards have been enacted, and continue to be proposed, that eliminate or erode local control over local development and circumvent the California Environmental Quality Act ("CEQA"), creating the potential for harmful environmental impacts to occur.
- (i) The purpose of this measure is to ensure that all decisions regarding local land use controls, including zoning law and regulations, are made by the affected communities in accordance with applicable law, including but not limited to CEQA (Public Resources Code § 21000 et seq.), the California Fair Employment and Housing Act (Government Code §§ 12900 – 12996), prohibitions against discrimination (Government Code § 65008), and affirmatively furthering fair housing (Government Code § 8899.50). This constitutional amendment would continue to provide for state control in the coastal zone, the siting of a power plant that can generate more than 50 megawatts of electricity, or the development or construction of water, communication or transportation infrastructure projects which the Legislature declares are matters of statewide concern and are in the best interests of the state. For purposes of this measure, it is the intent that a transportation infrastructure project shall not include a transit-oriented development project that is residential, commercial, or mixed-use.

SECTION 2. Section 4.5 is added to Article XI of the California Constitution, to read:

SEC. 4.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a county charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a county charter, that regulates the zoning, development or use of land within the boundaries of an unincorporated area of the county shall be deemed a county affair within the meaning of Section 4 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any county shall be overturned or otherwise nullified by any legislative body.

(b) A county charter provision, general plan, specific plan, ordinance or a regulation adopted and applicable to an unincorporated area within a county, may be determined only by a court of competent jurisdiction, in accordance with Section 4, to address either a matter of statewide concern or a county affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

- (1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.
- (2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.
- (3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 3. Section 5.5 is added to Article XI of the California Constitution, to read:

SEC. 5.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, that establishes land use policies or regulates zoning or development standards within the boundaries of the city shall be deemed a municipal affair within the meaning of Section 5 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any city shall be overturned or otherwise nullified by any legislative body.

(b) A city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, may be determined only by a court of competent jurisdiction, in accordance with Section 5, to address either a matter of statewide concern or a municipal affair

if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

- (1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.
- (2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.
- (3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 4. Section 7 of Article XI of the California Constitution is amended to read:

SEC. 7. (a) A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations ~~not~~ that are not, except as provided in subdivision (b), in conflict with general laws. A county or city may not supersede or otherwise interfere with any voter approved local initiative pertaining to land use or zoning restrictions.

(b) A county or city general plan, specific plan, ordinance or regulation that regulates the zoning, development or use of land within the boundaries of the county or city shall prevail over conflicting general laws, except for only the following:

(A) A coastal land use plan, ordinance or regulation that conflicts with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.

(B) An ordinance or regulation that addresses the siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(C) An ordinance or regulation that addresses the development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this subparagraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this subdivision are severable. If any provision of this subdivision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.