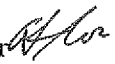


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 10, 2011

TO: Honorable Members of the Information Technology & Government Affairs Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Assignment No. 11-08-0721
Council File No. 11-0002-S117

SUBJECT: Resolution (Parks-Englander) to OPPOSE SB 469 relative to superstores and development project review.

CLA RECOMMENDATION: Adopt the attached Resolution to include in the City's 2011-12 State Legislative Program, OPPOSITION to SB 469 (Vargas), which would require cities, including charter cities and counties, prior to approving or disapproving a development project for the construction of a superstore, to require the project applicant to prepare an economic impact report, inasmuch as it would dilute local land use authority.

SUMMARY

Resolution (Parks-Englander) indicates that SB 469 (Vargas) would define a superstore as a business establishment that exceeds 90,000 square feet of gross floor area, sells a wide range of consumer goods, and devotes 10% of its floor space to non-taxable food items.

The City already approved its own regulations of superstores located in economic assistance areas in August 2004 when it approved Ordinance No. 176166 (Council File No. 00-1675-S1). Enactment into law of SB 469 would be contrary to the City's regulations, and would also undermine local control, inasmuch as the legislation would also apply to charter cities.

The California League of Cities is opposed to SB 469 because it narrowly defines "superstores" and not other large retailers with similar impacts. The League notes that SB 469 treats similar land uses differently, and thereby it undermines local land use discretion and authority, including the authority of charter cities.

There are some key differences between provisions proposed in SB 469 and the City's ordinance that regulates superstores, as follows:

City Ordinance No. 176166

- ◆ Applies to superstores located in Economic Assistance Areas;
- ◆ Superstore is defined as 100,000 square feet or more of floor area;
- ◆ Subject to Conditional Use Permits;
- ◆ Economic Impact Report required if the superstore is proposed in an Economic Assistance Area and is 100,000 square feet or more.

Proposed SB 469 (Vargas):

- ◆ No restrictions associated with Economic Assistance Areas or other geographic regions;
- ◆ Superstore is defined as 90,000 square feet or more of floor area;
- ◆ No language associated with Conditional Use Permits is included in the Bill;
- ◆ Economic Impact Report would be required if the proposed superstore is 90,000 square feet or more.

BACKGROUND

SB 469 would require the preparation and submission of an economic impact analysis prior to approving or disapproving the development of a superstore that exceeds 90,000 square feet of gross floor area. The bill has passed the State Senate and has been referred to the State Assembly's Appropriations Committee.

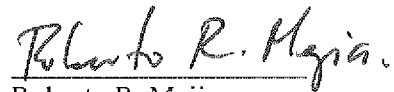
The Resolution further indicates that SB 469 excludes from the definition of "superstore" discount warehouses and discount retail stores that sell more than half of their items in large quantities or bulk, and also require shoppers to pay a membership or assessment fee. Therefore, SB 469 would not apply to discount membership stores, department stores, grocery chains, shopping malls and other large project with similar impacts.

DEPARTMENTS NOTIFIED

Department of City Planning
Department of Building and Safety
City Attorney

BILL STATUS

2/17/11 Introduced.
5/10/11 Amended in Senate.
5/31/11 Passed Senate.
8/17/11 Assembly Appropriations Committee.



Roberto R. Mejia
Analyst

Attachments: 1. Resolution
2. SB 469 (Vargas)
3. Ordinance No. 176166
4. League of California Cities June 17, 2011 letter.

11-0002-5117

JUN 29 2011

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal government body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Senate Bill (SB) 469 was introduced by Senator Vargas on February 17, 2011 and would require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore, to require the project applicant to prepare an economic impact report; and

WHEREAS, SB 469 defines a "superstore" as a business establishment that exceeds 90,000 square feet of gross floor area, sells a wide range of consumer goods, and devotes 10% of its floor space to non-taxable food items; and

WHEREAS, SB 469 excludes from the definition of "superstore" discount warehouses and discount retail stores that sell more than half of their items in large quantities or bulk, and also require shoppers to pay a membership or assessment fee; and

WHEREAS, SB 469 would not apply to discount membership stores, department stores, grocery chains, shopping malls and other large project with similar impacts; and

WHEREAS, the California League of Cities is opposed to SB 469 because it narrowly defines "superstores" and not other large retailers with similar impacts, therefore SB 469 treats similar land uses differently, and thereby it undermines local land use discretion and authority, including the authority of charter cities; and

WHEREAS, the City already approved its own regulations of superstores located in economic assistance areas in August 2004 when it approved Ordinance No. 176166 (Council File No. 00-1675-S1), enactment into law of SB 469 would be contrary to the city's regulations, and would also undermine local control, inasmuch as the legislation would also apply to charter cities;

NOW, THEREFORE BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2011-2012 State Legislative Program OPPOSITION to SB 469 (Vargas) which would require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a "superstore" retailer to require the project applicant to prepare an economic impact report, and enactment into law of SB 469 would dilute local land use authority.

PRESENTED BY: Bernard C. Parks
BERNARD C. PARKS
Councilmember, 8th District

SECONDED BY: [Signature]

ORIGINAL

Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 08/08/2011

Council File Number
11-0002-S117

Title
SB 469 (Vargas) / Construction of Superstore

Last Change Date	Expiration Date
08/01/2011	07/29/2013

Pending in committee
Information Technology and Government Affairs Committee

Mover	Second
BERNARD PARKS	MITCHELL ENGLANDER

Action History for Council File 11-0002-S117

Date	Activity
07/29/2011	Resolution referred to Information Technology and Government Affairs Committee.

AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE APRIL 12, 2011
AMENDED IN SENATE MARCH 30, 2011

SENATE BILL

No. 469

Introduced by Senator Vargas

February 17, 2011

An act to amend Section 65950 of, and to add Section 65957.3 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 469, as amended, Vargas. Land use: development project review: superstores.

(1) The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within ~~6 months from the date of certification of an environmental impact report or within 3 months~~ 60 days from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

This bill would, in addition, require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to cause an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations and

employment in the same market area. The bill would also require the governing body to provide an opportunity for public comment on the economic impact report. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would also require the lead agency to approve or disapprove the project within 180 days from the date of certification of an environmental impact report and approval of an economic impact report, or within 60 days from the date of adoption of a negative declaration and approval of an economic impact report or the determination by the lead agency that the project is exempt from the California Environmental Quality Act and approval of an economic impact report.

(2) 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 no reimbursement is required by this act for a specified reason.

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. It is the intent of the Legislature to promote
2 economic development in all communities of the state and to
3 address the impact on the state's small businesses from the
4 superstore retail model. Therefore, the Legislature finds and
5 declares all of the following:
6 (a) It is in the interest of local governments to promote economic
7 development in their jurisdictions.
8 (b) Land use decisions are frequently linked to fiscal policy
9 because local governments receive a share of sales tax revenues
10 generated within their borders. California cities thus often seek
11 large sales tax revenue sources, such as superstores, without taking
12 into account all of the external economic effects that superstores
13 bring to communities.
14 (c) Transformations in the big box retail industry have altered
15 retail business nationwide. The engine of this change is the retail
16 format known as the superstore—a big box retail store that also
17 contains the equivalent of a full-size grocery store, with the total

1 floor space often three to four times as large as that of a
2 conventional supermarket.

3 (d) As a result of the restructuring of retail business, particularly
4 the grocery sector in California, the following effects may be seen:
5 local grocers, who yield a greater community return on investment,
6 are driven out of business; less community access to viable
7 superstore alternatives; lower wages and benefits paid to grocery
8 workers by superstore retailers; and a host of complex land use,
9 traffic, and fiscal impacts.

10 (e) Superstores typically combine a large variety of discount
11 general merchandise with full service grocery sales to the general
12 public under one roof, thereby generating more intense land use
13 and environmental impacts than other large-scale retailers and
14 wholesale membership clubs.

15 (f) Industry and academic studies indicate superstores rarely
16 add any retail services not currently provided within a community,
17 and the majority of sales growth at a superstore comes from a
18 direct shift of dollars from existing retailers within a community,
19 primarily from grocery stores.

20 (g) Land use decisions regarding superstores fall to city and
21 county governments, even if the impacts will be regional as well
22 as local.

23 (h) Currently, local governments that desire to perform due
24 diligence for their constituents by performing an economic analysis
25 are placed at a disadvantage because a neighboring city or county
26 may not perform an economic analysis. This a situation may result
27 in the shifting of sales tax and destruction of the business
28 community in a city or county that simply wants to study the
29 impacts of the development project before making a final approval.

30 *SEC. 2. Section 65950 of the Government Code is amended to*
31 *read:*

32 65950. (a) Any public agency that is the lead agency for a
33 development project shall approve or disapprove the project within
34 whichever of the following periods is applicable:

35 (1) One hundred eighty days from the date of certification by
36 the lead agency of the environmental impact report if an
37 environmental impact report is prepared pursuant to Section 21100
38 or 21151 of the Public Resources Code, *and approval of any*
39 *economic impact report required pursuant to Section 65957.3, for*
40 *the development project.*

1 (2) Ninety days from the date of certification by the lead agency
2 of the environmental impact report if an environmental impact
3 report is prepared pursuant to Section 21100 or 21151 of the Public
4 Resources Code for the development project and all of the
5 following conditions are met:

6 (A) At least 49 percent of the units in the development project
7 are affordable to very low or low-income households, as defined
8 by Sections 50105 and 50079.5 of the Health and Safety Code,
9 respectively. Rents for the lower income units shall be set at an
10 affordable rent, as that term is defined in Section 50053 of the
11 Health and Safety Code, for at least 30 years. Owner-occupied
12 units shall be available at an affordable housing cost, as that term
13 is defined in Section 50052.5 of the Health and Safety Code.

14 (B) Prior to the application being deemed complete for the
15 development project pursuant to Article 3 (commencing with
16 Section 65940), the lead agency received written notice from the
17 project applicant that an application has been made or will be made
18 for an allocation or commitment of financing, tax credits, bond
19 authority, or other financial assistance from a public agency or
20 federal agency, and the notice specifies the financial assistance
21 that has been applied for or will be applied for and the deadline
22 for application for that assistance, the requirement that one of the
23 approvals of the development project by the lead agency is a
24 prerequisite to the application for or approval of the application
25 for financial assistance, and that the financial assistance is
26 necessary for the project to be affordable as required pursuant to
27 subparagraph (A).

28 (C) There is confirmation that the application has been made
29 to the public agency or federal agency prior to certification of the
30 environmental impact report.

31 (3) Sixty days from the date of adoption by the lead agency of
32 the negative declaration if a negative declaration is completed and
33 adopted, *and approval of any economic impact report required*
34 *pursuant to Section 65957.3*, for the development project.

35 (4) Sixty days from the determination by the lead agency that
36 the project is exempt from the California Environmental Quality
37 Act (Division 13 (commencing with Section 21000) of the Public
38 Resources Code), *and approval of any economic impact report*
39 *required pursuant to Section 65957.3*, if the project is exempt from
40 the California Environmental Quality Act.

1 (b) This section does not preclude a project applicant and a
2 public agency from mutually agreeing in writing to an extension
3 of any time limit provided by this section pursuant to Section
4 65957.

5 (c) For purposes of paragraph (2) of subdivision (a),
6 “development project” means a use consisting of either of the
7 following:

8 (1) Residential units only.

9 (2) Mixed-use developments consisting of residential and
10 nonresidential uses in which the nonresidential uses are less than
11 50 percent of the total square footage of the development and are
12 limited to neighborhood commercial uses and to the first floor of
13 buildings that are two or more stories. As used in this paragraph,
14 “neighborhood commercial” means small-scale general or specialty
15 stores that furnish goods and services primarily to residents of the
16 neighborhood.

17 (d) For purposes of this section, “lead agency” and “negative
18 declaration” shall have the same meaning as those terms have in
19 Sections 21067 and 21064 of the Public Resources Code,
20 respectively.

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 65957.3 is added to the Government Code, to
23 read:

24 65957.3. (a) As used in this section, “superstore” means a
25 business establishment that exceeds 90,000 square feet of gross
26 floor area, sells a wide range of consumer goods, and devotes 10
27 percent of the sales floor area to the sale of items that are exempted
28 from the Sales and Use Tax Law pursuant to Section 6359 of the
29 Revenue and Taxation Code. “Superstore” shall include retail
30 establishments with multiple tenants, and the cumulative sum of
31 related or successive permits that may be part of a larger project,
32 including piecemeal additions to a building, so long as consumer
33 goods and nontaxable items are sold under the same roof with
34 shared checkout stands, entrances, and exits. This definition
35 excludes discount warehouses and discount retail stores that sell
36 more than half of their items in large quantities or bulk, and also
37 require shoppers to pay a membership or assessment fee.

38 (b) As used in this section, the term “market area” has the same
39 meaning as that term is defined in Section 53084.

1 (c) Prior to approving or disapproving a permit for the
2 construction or conversion of a superstore retailer, a city, county,
3 or city and county shall cause to be prepared an economic impact
4 report.

5 (1) The city, county, or city and county may prepare the
6 economic impact report or contract with a private entity, other than
7 the permit applicant, or with another public agency for the
8 preparation of the report. The private entity or other public agency
9 shall be qualified by education, training, and experience to conduct
10 economic and fiscal impact analyses.

11 (2) The applicant for the development project shall pay the city,
12 county, or city and county for the costs of preparing the economic
13 impact report.

14 (3) The economic impact report shall include, but is not limited
15 to, all of the following:

16 (A) An assessment of the extent to which the proposed
17 superstore retailer will capture a share of retail sales in the market
18 area.

19 (B) An assessment of how the construction and operation of the
20 proposed superstore will affect the supply and demand for retail
21 space in the market area.

22 (C) An assessment of how the construction and operation of the
23 proposed superstore will affect employment in the market area,
24 including all of the following:

25 (i) The number of persons employed in existing retail stores in
26 the market area.

27 (ii) An estimate of the number of people who will likely be
28 employed by the proposed superstore.

29 (iii) An analysis of whether the proposed superstore will result
30 in a net increase or decrease in employment in the market area.

31 (iv) The effect on wages and benefits of employees of other
32 retail businesses, and community income levels in the market area.

33 (D) A projection of the costs of public services and public
34 facilities resulting from the construction and operation of the
35 proposed superstore retailer and the incidence of those costs.

36 (E) A projection of the public revenues resulting from the
37 construction and operation of the proposed superstore retailer and
38 the incidence of those revenues.

39 (F) An assessment of the effect that the construction and
40 operation of the proposed superstore retailer will have on retail

1 operations, including grocery or retail shopping centers, in the
2 same market area, including the potential for blight resulting from
3 retail business closures and the nature of any businesses displaced.

4 (G) An assessment of the effect that the construction and
5 operation of the proposed superstore will have on the ability of
6 the city, county, or city and county to implement the goals
7 contained in its general plan, including, but not limited to, local
8 policies and standards that apply to land use patterns, traffic
9 circulation, affordable housing, natural resources, including water
10 supplies, open-space lands, noise problems, and safety risks.

11 (H) An assessment of the effect that the construction and
12 operation of the proposed superstore will have on average total
13 vehicle miles traveled by retail customers in the same market area.

14 (I) An assessment of the potential for long-term vacancy of the
15 property on which the superstore is proposed in the event that the
16 business vacates the premises, including any restrictions that exist
17 on the subsequent use of the property on which the superstore is
18 proposed to be located, including the provisions of any lease that,
19 in the event the owner or operator of the superstore vacates the
20 premises, would require the premises to remain vacant for a
21 significant amount of time.

22 (J) An assessment of whether the superstore would require the
23 demolition of housing or any other action or change that would
24 result in a decrease or negative impact on the creation of extremely
25 low, very low, low-, or moderate-income housing.

26 (K) An assessment of whether the superstore would result in
27 the destruction or demolition of park or other green space,
28 playgrounds, child care facilities, or community centers.

29 (L) An assessment of whether the superstore would result in
30 any other adverse or positive economic impacts or blight.

31 (M) An assessment of whether any measures are available that
32 may mitigate any materially adverse economic impacts identified
33 by the applicant.

34 (d) This section shall not preclude a city, county, or city and
35 county from conducting additional studies of the effects of the
36 construction and operation of a proposed superstore retailer.

37 (e) At any regularly scheduled meeting or meetings of the city,
38 county, or city and county governing body, after the completion
39 *and approval* of the economic impact report required by
40 subdivision (b), and 30 days prior to the issuance of any

1 entitlement, including, but not limited to, a building permit, a city,
2 county, or city and county shall provide the opportunity for public
3 comment on the economic impact report and its findings.

4 (f) (1) The Legislature finds that the construction and operation
5 of a superstore retailer has land use, environmental, economic,
6 fiscal, and social equity effects that extend beyond the boundaries
7 of the city, county, or city and county in which it is located.

8 (2) The Legislature finds that it is essential for the statewide
9 public health, safety, and welfare to require cities, counties, and
10 cities and counties to understand the potential spillover effects of
11 approving the construction and operation of superstore retailers.

12 (3) The Legislature further finds and declares that the review
13 and regulation of superstore retailers is a matter of statewide
14 concern and not merely a municipal affair, as that term is used in
15 Section 5 of Article XI of the California Constitution. Therefore,
16 this section shall apply to charter cities and to charter cities and
17 counties.

18 ~~SEC. 3.~~

19 *SEC. 4.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of Section
24 17556 of the Government Code.

CURRENT BILL STATUS

MEASURE : S.B. No. 469
AUTHOR(S) : Vargas.
TOPIC : Land use: development project review: superstores.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 05/10/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/23/2011

LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR.
(Ayes 5. Noes 3.) (June 22). Re-referred to Com. on
APPR.

COMM. LOCATION : ASM APPROPRIATIONS

HEARING DATE : 08/17/2011

TITLE : An act to amend Section 65950 of, and to add Section
65957.3 to, the Government Code, relating to land use.

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 469
AUTHOR : Vargas
TOPIC : Land use: development project review: superstores.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2011

June 23 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 3.) (June 22). Re-referred to Com. on APPR.
June 9 Referred to Coms. on L. GOV. and NAT. RES.
June 1 In Assembly. Read first time. Held at Desk.
May 31 Read third time. Passed. (Ayes 21. Noes 14. Page 1185.) Ordered to the Assembly.
May 24 Read second time. Ordered to third reading.
May 23 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.
May 13 Set for hearing May 23.
May 10 Read second time and amended. Re-referred to Com. on APPR.
May 9 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 5. Noes 2. Page 855.) (May 2).
Apr. 14 Set for hearing May 2.
Apr. 12 Read second time and amended. Re-referred to Com. on E.Q.
Apr. 11 From committee: Do pass as amended and re-refer to Com. on E.Q. (Ayes 6. Noes 3. Page 559.) (April 6).
Mar. 30 From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.
Mar. 9 Set for hearing April 6.
Mar. 3 Referred to Coms. on GOV. & F. and E.Q.
Feb. 18 From printer. May be acted upon on or after March 20.
Feb. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

ORDINANCE NO. 176166

An ordinance establishing regulations of "Superstores" in "Economic Assistance Areas" in the City of Los Angeles.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code is amended to read:

(a) **Definitions.** For purposes of this Subdivision the following words and phrases are defined as follows:

Economic Assistance Areas means the existing geographically defined areas: Five State Enterprise Zones, Federal Empowerment Zone, Federal Renewal Community Zone, thirty-seven Community Redevelopment Agency Project Areas, and Earthquake Project Areas, and a one-mile buffer surrounding each of the above-identified zones, as identified by the Community Development Department and as shown on the "Los Angeles Economic Assistance Areas" Map, dated January 2004, which is attached to Council File No. 00-1675 S2 and is on file in the Community Development Department, and which may be amended from time to time.

Major Development Project means the construction of, the addition to, or the alteration of, any buildings or structures which create or add 250,000 square feet or more of warehouse floor area, 250 or more hotel/motel guest rooms, or 100,000 square feet or more of floor area in other nonresidential or non-warehouse uses. The above definition shall apply to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Director of Planning. For the purpose of this subdivision, floor area shall be as defined in Section 12.03 of this Code.

Non-taxable Merchandise means products, commodities, or items not subject to California state sales tax. For purposes of this ordinance, the definition of non-taxable merchandise shall not include, without limitation, Sales Floor Area devoted to any of the following categories: services, including the services of a chiropractor, optometrist, optician, physician, surgeon, podiatrist, dentist, spa, gym, nail salon, and travel accommodation services; theaters and other entertainment uses; and food products sold through vending machines.

Sales Floor Area means the interior building space devoted to the sale of merchandise, but excludes restrooms, office space, storage space, automobile service areas, or open-air garden sales space. For the purpose of determining the total sales floor area of a single business establishment, the aggregate square footage of all adjacent stores that share common check stands, management of the business operation of such adjacent stores, controlling ownership interest in the business operation of such adjacent stores, warehouses, or distribution facilities shall be considered a single business establishment.

Superstore means a Major Development Project that sells from the premises goods and merchandise, primarily for personal or household use, and whose total Sales Floor Area exceeds 100,000 square feet and which devote more than 10% of sales floor area to the sale of Non-Taxable Merchandise. This definition excludes wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment fee. This definition also excludes the sale or rental of motor vehicles, except for parts and accessories, and the sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

Sec. 2. A new Paragraph (d) is added to Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code to read:

(d) Superstores in Economic Assistance Areas.

(1) Additional Findings. In addition to the findings otherwise required by this Section and set forth in Paragraph (b) of this Subdivision, prior to approval of a Superstore that is located in an Economic Assistance Area, the City Planning Commission or the City Council on appeal shall find, after consideration of all economic benefits and costs, that the Superstore would not materially adversely affect the economic welfare of the Impact Area, based upon information contained in an economic impact analysis report submitted by the applicant, any other information received or obtained by the Community Development Department or the Community Redevelopment Agency, a recommendation by the Community Development Department, or the Community Redevelopment Agency pursuant to Subparagraph (3) below, and any other information received before or at a public hearing required by this Section. The phrase "Impact Area" refers to a three mile radius surrounding the proposed location of the Superstore.

(2) Procedures. An application for approval of a Superstore pursuant to this paragraph shall follow the procedures for conditional use permits otherwise required by this Section. In addition, the applicant shall prepare and submit the economic impact analysis report referenced in subparagraph (1) to the

Community Development Department or to the Community Redevelopment Agency, where appropriate, for review in conjunction with its application to the Department of Planning. The economic impact analysis report shall be reviewed by the Department or Agency and/or a consultant, if deemed necessary by the Department or Agency and paid for in full by the applicant. The Community Development Department and the Community Redevelopment Agency shall complete its review of the report within 60 days after receipt of the report from the applicant. The report shall identify whether:

(i) Efforts to establish a market larger than 20,000 square feet within the Impact Area have been unsuccessful or whether the proposed use will have an adverse impact or economic benefit on grocery or retail shopping centers in the Impact Area;

(ii) The Superstore would result in the physical displacement of any businesses, and, if so, the nature of the displaced businesses or would create economic stimulation in the Impact Area;

(iii) The Superstore would require the demolition of housing, or any other action or change that results in a decrease of extremely low, very low, low or moderate income housing on site;

(iv) The Superstore would result in the destruction or demolition of any park or other green space, playground, childcare facility, community center;

(v) The Superstore would provide lower in cost and/or higher in quality goods and services to residents than currently available or that are currently unavailable from a cost benefit perspective within the Impact Area in which the project is proposed to be located;

(vi) The Superstore would displace jobs within the Impact Area or provide economic revitalization and/or job creation. For purposes of determining this impact, the applicant must identify the number of jobs displaced or created, the quality of the jobs, whether the jobs are temporary or permanent, and the employment sector in which the lost jobs are located;

(vii) The Superstore would have a fiscal impact either positive or negative on City tax revenue;

(viii) Any restrictions exist on the subsequent use of the property on which the Superstore is proposed to be located, including the provisions of a lease if applicable, which, in the event the owner or operator of the Superstore vacates the premises, would require the premises to remain vacant for a significant amount of time;

(ix) The Superstore will result in any materially adverse or positive economic impacts or blight on the Impact Area; and

(x) Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary.

(3) Recommendation. The Community Development Department, or the staff of the Community Redevelopment Agency if the Superstore is proposed to be located in a redevelopment area or in the surrounding one-mile buffer zone, shall review the economic impact analysis report and, after consideration of economic benefits and costs, make a written recommendation as to whether the proposed Superstore will result in a materially adverse economic impact on the Impact Area and, if so, whether conditions are available which will mitigate the economic impact. The written recommendation, including proposed mitigation measures, if any, shall be submitted to the Department of Planning by the Community Development Department, or the staff of the Community Redevelopment Agency, as appropriate, in accordance with the written procedures on file with the Department and the Agency.

Sec. 3. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this Ordinance are declared to be severable.

(101768)

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of August 11, 2004, and was passed by a vote of not less than two-thirds of all its members, at its meeting of AUG 18 2004

J. MICHAEL CAREY, City Clerk

By *Marin Kozlowski*
Deputy

Approved AUG 19 2004

James L. Han
Mayor

Approved as to Form and Legality
Rockard J. Delgadillo, City Attorney

By *Terry Kaufmann Macias*
TERRY KAUFMANN MACIAS
Deputy City Attorney

Pursuant to Charter Section 559, I
disapprove this ordinance on behalf of the
City Planning Commission and recommend
it not be adopted

August 9, 2004

see attached report.

Con Howe
CON HOWE
Director of Planning

Date AUG 09 2004

File No(s). CF 00-1675-S1: CPC 2000-4247-CA

DECLARATION OF POSTING ORDINANCE


I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176166 - Amended Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the L.A.M.C. to establish regulations of "Superstores" in "Economic Assistance Areas" in the City of Los Angeles - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on Aug. 18, 2004, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on August 25, 2004, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on August 25, 2004 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25th day of August 2004 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: Oct. 4, 2004

Council File No. 00-1675-S1



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

June 17, 2011

Honorable Cameron Smyth, Chair
Assembly Committee on Local Government
State Capitol, Room 4098
Sacramento, CA 95814

RE: Opposition to SB 469 Land Use: Discriminatory Studies

Dear Chairman Smyth:

On behalf of the League of California Cities, I write in opposition to SB 469. This measure discriminates against certain local land use decisions by requiring an exhaustive economic impact report to be prepared for only a narrow set of "superstores," selling non-taxable food products, but not to other large retailers with similar impacts.

Specifically, SB 469 requires a city or county to cause to be prepared, at applicant expense, a costly report examining 17 different detailed conditions. A "superstore" is narrowly defined as over 90,000 sq. ft., *selling a wide range of consumer goods, and where 10 percent of the total floor area is devoted to selling non-taxable food items.* Curiously, this measure contains an exemption for "discount warehouses" (with no sq. ft. limitations) that sell over half of their items in bulk and require a membership fee.

While a number of the issues identified for analysis may be valid (number of jobs created, impact on general plan, travel patterns, etc.) the bill has a discriminatory effect by not subjecting other large retail establishments to the same rigorous review.

If the Legislature was concerned, as stated in the bill's intent language, about possible regional and local impacts of large retail establishments, the same analysis would logically apply to grocery stores, home improvement stores, department stores, shopping malls and any other business with a large parking lot.

If not to influence a competitive issue between types of grocers, why the surgical focus only on a specific type of retailer selling both consumer goods and food products? Do not large grocery stores have similar impacts on produce vendors, liquor stores, corner grocery stores, flower shops and other small retailers? How

about the impact of large home improvement stores on local hardware stores, nurseries and lawnmower shops? Do not large department stores have negative effects on small appliance dealers and furniture shops?

Cities are neither pro nor anti the narrow group of retailers targeted by this bill, and impacts of new development on a community are always taken into consideration. But each of the State's 481 diverse cities must maintain the ability to make decisions which best fit their community. Each individual city, or the voters within local communities, may reach different conclusions on the extent to which these enterprises add to or extract value from their community. It should not be the Legislature's role to attempt to favor one type of grocer over another.

By singling out a specific type of large retailer to endure such a rigorous analysis, while excluding others with similar regional and local impacts, SB 469 would have a discriminatory effect and fundamentally undermine local land use discretion and authority.

For these reasons, the League opposes SB 469. Please do not hesitate to contact me if you have any questions regarding our opposition to this bill.

Sincerely,



Daniel Carrigg
Legislative Director

cc. Senator Juan Vargas
Members, Assembly Local Government Committee
Chair and Members, Assembly Natural Resources Committee
Katie Kolitsos, Chief Consultant, Assembly Local Government Committee
Mario Debernardo, Senior Consultant, Assembly Natural Resources Com.
William Weber, Consultant, Assembly Republican Caucus
John Kennedy, Consultant, Assembly Republican Caucus
Gareth Elliot, Legislative Affairs Secretary, Governor Jerry Brown