

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN SENATE MAY 17, 2005

AMENDED IN SENATE MAY 9, 2005

AMENDED IN SENATE APRIL 20, 2005

AMENDED IN SENATE FEBRUARY 23, 2005

**SENATE BILL**

**No. 44**

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**Introduced by Senator Kehoe Torlakson**  
*(Principal coauthor: Assembly Member Nunez)*

January 4, 2005

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~~An act to amend Section 65302.1 of the Government Code, relating to general plans. An act to amend 2985.8 of the Civil Code, and to amend Section 11713.1 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, ~~Kehoe Torlakson~~. ~~General plans: air quality element~~ ~~Vehicles: dealer document preparation charges.~~

*Existing law makes it a violation of the Vehicle Code for the holder of a vehicle dealer's license to commit specified actions, including, among other things, to advertise the total price of a vehicle without including all costs to the purchaser at the time of sale, except taxes, vehicle registration fees, the California tire fee, as defined, emission testing fees not exceeding \$50, actual fees charged for certificates, finance charges, and a dealer document preparation charge, and prohibits the dealer document preparation charge from exceeding \$45. Existing law regulates a vehicle lease contract, including \$45 as the maximum amount for document preparation.*

*This bill would increase to \$55 the maximum dealer document preparation charge.*

~~Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality, including a report describing local air quality conditions.~~

~~This bill would make a legislative finding that air pollution is a serious problem in this state. The bill would require the legislative body of each city and county located in specified areas to either adopt an air quality element as part of its general plan, as specified, or amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies intended to contribute to and complement other local, regional, state, and federal strategies to improve air quality no later than one year from the date specified for the next revision of its housing element that occurs after January 1, 2007. The bill would require all other cities and counties to comply with these provisions, as specified, during their next general plan update but no later than the date specified for the 5th revision of their housing element that occurs after January 1, 2007.~~

~~The bill would also require each city and county, at least 45 days prior to the adoption of an air quality element or the amendment of a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review, comment, and recommendations, as specified. A city or county that adopts an air quality element or amendments to its general plan prior to January 1, 2007, shall be deemed to have met the requirements of the bill, if the city or county makes a specified written finding. By increasing the duties of local public 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 no reimbursement is required by this act for a specified reason.~~

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

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2985.8 of the Civil Code is amended to  
2 read:

3 2985.8. (a) ~~Every~~A lease contract shall be in writing and the  
4 print portion of the contract shall be printed in at least 8-point  
5 type and shall contain in a single document all of the agreements  
6 of the lessor and lessee with respect to the obligations of each  
7 party.

8 (b) At the top of the lease contract, a title which contains the  
9 words “LEASE CONTRACT” or “LEASE AGREEMENT” shall  
10 appear in at least 12-point boldface type.

11 (c) ~~Every~~The lease contract shall disclose all of the following:

12 (1) All of the information prescribed by Regulation M set forth  
13 in the manner required or permitted by Regulation M, whether or  
14 not Regulation M applies to the transaction.

15 (2) A separate statement labeled “Itemization of Gross  
16 Capitalized Cost” that shall appear immediately following or  
17 directly adjacent to the disclosures required to be segregated by  
18 Regulation M. The Itemization of Gross Capitalized Cost shall  
19 include all of the following and shall be circumscribed by a line:

20 (A) The agreed-upon value of the vehicle as equipped at the  
21 time of signing the lease.

22 (B) The agreed-upon value and a description of each accessory  
23 and item of optional equipment the lessor agrees to add to the  
24 vehicle after signing the lease.

25 (C) The premium for ~~each~~ a policy of insurance.

26 (D) The amount charged for ~~each~~ a service contract.

27 (E) ~~Any~~A charge for an optional debt cancellation agreement.

28 (F) ~~Any outstanding~~Outstanding prior credit or lease balance.

1 (G) An itemization by type and agreed-upon value of each  
2 good or service included in the gross capitalized cost other than  
3 those items included in the disclosures required in subparagraphs  
4 (A) to (F), inclusive.

5 (3) The vehicle identification number of the leased vehicle.

6 (4) A brief description of ~~each~~ *a* vehicle or other property  
7 being traded in and the agreed-upon value thereof if the amount  
8 due at the time of signing the lease or upon delivery is paid in  
9 whole or in part with a net trade-in allowance or the “Itemization  
10 of Gross Capitalized Cost” includes any portion of the  
11 outstanding prior credit or lease balance from the trade-in  
12 property.

13 (5) The fee, if any, to be retained by the lessor for document  
14 preparation, which fee may not exceed ~~forty-five~~ *fifty-five* dollars  
15 (~~\$45~~) (*\$55*) and may not be represented as a governmental fee.

16 (6) The amount of any optional business partnership  
17 automation program fee to register or transfer the vehicle, which  
18 shall be labeled “Optional DMV Electronic Filing Fee.”

19 (d) ~~Every~~ *The* lease contract shall contain, in at least 8-point  
20 boldface type, above the space provided for the lessee’s signature  
21 and circumscribed by a line, the following notice: “(1) Do not  
22 sign this lease before you read it or if it contains any blank spaces  
23 to be filled in; (2) You are entitled to a completely filled in copy  
24 of this lease; (3) Warning—Unless a charge is included in this  
25 lease for public liability or property damage insurance, payment  
26 for that coverage is not provided by this lease.”

27 (e) ~~Every~~ *The* lease contract shall contain, in at least 8-point  
28 boldface type, on the first page of the contract and circumscribed  
29 by a line, the following notice:

30

31 “THERE IS NO COOLING OFF PERIOD

32

33 California law does not provide for a “cooling off” or other  
34 cancellation period for vehicle leases. Therefore, you cannot later  
35 cancel this lease simply because you change your mind, decided  
36 the vehicle costs too much, or wish you had acquired a different  
37 vehicle. You may cancel this lease only with the agreement of  
38 the lessor or for legal cause, such as fraud.”

39 (f) ~~Every~~ *The* lease contract shall contain, in at least 8-point  
40 boldface type, the following notice: “You have the right to return

1 the vehicle, and receive a refund of any payments made if the  
2 credit application is not approved, unless nonapproval results  
3 from an incomplete application or from incorrect information  
4 provided by you.”

5 (g) The lease contract shall be signed by the lessor and lessee,  
6 or their authorized representatives, and an exact copy of the fully  
7 executed lease contract shall be provided to the lessee at the time  
8 of signing.

9 (h) ~~No~~A motor vehicle shall *not* be delivered under a lease  
10 contract subject to this chapter until the lessor provides to the  
11 lessee a fully executed copy of the lease contract.

12 (i) The lessor may not obtain the signature of the lessee to a  
13 contract when it contains blank spaces to be filled in after it has  
14 been signed.

15 (j) If the lease contract contains a provision that holds the  
16 lessee liable for the difference between (1) the adjusted  
17 capitalized cost disclosed in the lease contract reduced by the  
18 amounts described in subparagraph (A) of paragraph (5) of  
19 subdivision (b) of Section 2987 and (2) the settlement proceeds  
20 of the lessee’s required insurance and deductible in the event of  
21 theft or damage to the vehicle that results in a total loss, the lease  
22 contract shall contain the following notice in at least 8-point  
23 boldface type on the first page of the contract:

24  
25 “GAP LIABILITY NOTICE

26  
27 In the event of theft or damage to the vehicle that results in a  
28 total loss, there may be a GAP between the amount due upon  
29 early termination and the proceeds of your insurance settlement  
30 and deductible. **THIS LEASE PROVIDES THAT YOU ARE**  
31 **LIABLE FOR THE GAP AMOUNT.** Optional coverage for the  
32 GAP amount may be offered for an additional price.”

33 *SEC. 2. Section 11713.1 of the Vehicle Code is amended to*  
34 *read:*

35 11713.1. It is a violation of this code for the holder of ~~any~~ a  
36 dealer’s license issued under this article to do any of the  
37 following:

38 (a) Advertise ~~any~~ a specific vehicle for sale without  
39 identifying the vehicle by its model, model-year, and either its  
40 license number or that portion of the vehicle identification

1 number that distinguishes the vehicle from all other vehicles of  
2 the same make, model, and model-year. Model-year is not  
3 required to be advertised for current model-year vehicles. Year  
4 models are no longer current when ensuing year models are  
5 available for purchase at retail in California. Any advertisement  
6 that offers for sale a class of new vehicles in a dealer's inventory,  
7 consisting of five or more vehicles, that are all of the same make,  
8 model, and model-year is not required to include in the  
9 advertisement the vehicle identification numbers or license  
10 numbers of those vehicles.

11 (b) Advertise the total price of a vehicle without including all  
12 costs to the purchaser at time of sale, except taxes, vehicle  
13 registration fees, the California tire fee, as defined in Section  
14 42885 of the Public Resources Code, emission testing fees not  
15 exceeding fifty dollars (\$50), actual fees charged for certificates  
16 pursuant to Section 44060 of the Health and Safety Code, finance  
17 charges, and any dealer document preparation charge. The dealer  
18 document preparation charge shall not exceed ~~forty-five~~ *fifty-five*  
19 dollars ~~(\$45)~~ (\$55).

20 (c) (1) Exclude from an advertisement of a vehicle for sale  
21 that there will be added to the advertised total price at the time of  
22 sale, charges for sales tax, vehicle registration fees, the California  
23 tire fee, the fee charged by the state for the issuance of ~~any a~~  
24 certificate of compliance or noncompliance pursuant to ~~any a~~  
25 statute, finance charges, and ~~any a~~ dealer document preparation  
26 charge.

27 (2) The obligations imposed by paragraph (1) ~~shall be~~ *is*  
28 satisfied by adding to the advertisement a statement containing  
29 no abbreviations and that is worded in substantially the following  
30 form: "Plus government fees and taxes, any finance charges, any  
31 dealer document preparation charge, and any emission testing  
32 charge."

33 (3) For purposes of paragraph (1), "advertisement" means ~~any~~  
34 *an* advertisement in a newspaper, magazine, or direct mail  
35 publication that is two or more columns in width or one column  
36 in width and more than seven inches in length, or on ~~any a~~ Web  
37 page of a dealer's Web site that displays the price of a vehicle  
38 offered for sale on the Internet, as that term is defined in  
39 paragraph (6) of subdivision (e) of Section 17538 of the Business  
40 and Professions Code.

1 (d) Represent the dealer document preparation charge or  
2 certificate of compliance or noncompliance fee, as a  
3 governmental fee.

4 (e) Fail to sell a vehicle to ~~any~~ a person at the advertised total  
5 price, exclusive of taxes, vehicle registration fees, the California  
6 tire fee, the fee charged by the state for the issuance of ~~any~~ a  
7 certificate of compliance or noncompliance pursuant to ~~any~~ a  
8 statute, finance charges, mobilehome escrow fees, the amount of  
9 ~~any~~ a city, county, or city and county imposed fee or tax for a  
10 mobilehome, and ~~any~~ a dealer document preparation charge,  
11 which charges shall not exceed ~~forty-five~~ *fifty-five* dollars (~~\$45~~)  
12 (*\$55*) for the document preparation charge and *not to exceed* fifty  
13 dollars (\$50) for emission testing plus the actual fees charged for  
14 certificates pursuant to Section 44060 of the Health and Safety  
15 Code, while the vehicle remains unsold, unless the advertisement  
16 states ~~that~~ the advertised total price is good only for a specified  
17 time and the time has elapsed. Advertised vehicles shall be sold  
18 at or below the advertised total price, with statutorily permitted  
19 exclusions, regardless of whether the purchaser has knowledge of  
20 the advertised total price.

21 (f) (1) Advertise for sale, sell, or purchase for resale ~~any~~ a  
22 new vehicle of a line-make for which the dealer does not hold a  
23 franchise.

24 (2) This subdivision does not apply to ~~any~~ a transaction  
25 involving ~~any~~ of the following:

26 (A) A mobilehome.

27 (B) A recreational vehicle as defined in Section 18010 of the  
28 Health and Safety Code.

29 (C) A commercial coach, as defined in Section 18001.8 of the  
30 Health and Safety Code.

31 (D) An off-highway motor vehicle subject to identification as  
32 defined in Section 38012.

33 (E) A manufactured home.

34 (F) A new vehicle that will be substantially altered or modified  
35 by a converter prior to resale.

36 (G) A commercial vehicle with a gross vehicle weight rating  
37 of more than 10,000 pounds.

38 (H) A vehicle purchased for export and exported outside the  
39 territorial limits of the United States without being registered  
40 with the department.

1 (g) Sell a park trailer, as specified in Section 18009.3 of the  
2 Health and Safety Code, without disclosing in writing to the  
3 purchaser that a park trailer is required to be moved by a  
4 transporter or a licensed manufacturer or dealer under a permit  
5 issued by the Department of Transportation or a local authority  
6 with respect to highways under their respective jurisdictions.

7 (h) Advertise free merchandise, gifts, or services provided by  
8 a dealer contingent on the purchase of a vehicle. The term “free”  
9 includes merchandise or services offered for sale at a price less  
10 than the seller’s cost of the merchandise or services.

11 (i) Advertise vehicles, and related goods or services, at a  
12 specified dealer price, with the intent not to supply reasonably  
13 expectable demand, unless the advertisement discloses the  
14 number of vehicles in stock at the advertised price. In addition,  
15 whether or not there are sufficient vehicles in stock to supply a  
16 reasonably expectable demand, when phrases such as “starting  
17 at,” “from,” “beginning as low as,” or words of similar import  
18 are used in reference to an advertised price, the advertisement  
19 shall disclose the number of vehicles available at that advertised  
20 price.

21 For purposes of this subdivision, in ~~any~~ a newspaper  
22 advertisement for a vehicle that is two model-years old or newer,  
23 the actual phrase that states the number of vehicles in stock at the  
24 advertised price shall be (1) printed in a type size that is at least  
25 equal to one-quarter of the type size, and in the same style and  
26 color of type, used for the advertised price, however, in no case  
27 shall the phrase be printed in less than 8-point type size, and (2)  
28 be disclosed immediately above, below, or beside the advertised  
29 price without ~~any~~ intervening words, pictures, marks, or symbols.

30 The disclosure required by this subdivision is in addition to any  
31 other disclosure required by this code or any regulation regarding  
32 identifying vehicles advertised for sale.

33 (j) Use the term “rebate” or similar words ~~such as~~, *including*,  
34 *but not limited to*, “cash back” in advertising the sale of a vehicle  
35 unless the rebate is expressed in a specific dollar amount and is  
36 in fact a rebate offered by the vehicle manufacturer or distributor  
37 directly to the retail purchaser of the vehicle or to the assignee of  
38 the retail purchaser.

39 (k) Require a person to pay a higher price for a vehicle and  
40 related goods or services for receiving advertised credit terms

1 than the cash price the same person would have to pay to  
2 purchase the same vehicle and related goods or services. For the  
3 purpose of this subdivision, “cash price” has the meaning as  
4 defined in subdivision (e) of Section 2981 of the Civil Code.

5 (l) Advertise a guaranteed trade-in allowance.

6 (m) Misrepresent the authority of a salesperson,  
7 representative, or agent to negotiate the final terms of a  
8 transaction.

9 (n) (1) Use the terms “invoice,” “dealer’s invoice,”  
10 “wholesale price,” or similar terms that refer to a dealer’s cost for  
11 a vehicle in an advertisement for the sale of a vehicle or advertise  
12 that the selling price of a vehicle is above, below, or at either of  
13 the following:

14 (A) The manufacturer’s or distributor’s invoice price to a  
15 dealer.

16 (B) A dealer’s cost.

17 (2) This subdivision does not apply to either of the following:

18 (A) ~~Any~~—A communication occurring during face-to-face  
19 negotiations for the purchase of a specific vehicle if the  
20 prospective purchaser initiates a discussion of the vehicle’s  
21 invoice price or the dealer’s cost for that vehicle.

22 (B) ~~Any~~—A communication between a dealer and a prospective  
23 commercial purchaser that is not disseminated to the general  
24 public. For purposes of this subparagraph, a “commercial  
25 purchaser” means a dealer, lessor, lessor-retailer, manufacturer,  
26 remanufacturer, distributor, financial institution, governmental  
27 entity, or person who purchases 10 or more vehicles during a  
28 year.

29 (o) ~~Violate any~~ a law prohibiting bait and switch advertising,  
30 including, but not limited to, the guides against bait advertising  
31 set forth in Part 238 (commencing with Section 238) of Title 16  
32 of the Code of Federal Regulations, as those regulations read on  
33 January 1, 1988.

34 (p) ~~Make any~~ an untrue or misleading statement indicating  
35 that a vehicle is equipped with all the factory installed optional  
36 equipment the manufacturer offers, including, but not limited to,  
37 a false statement that a vehicle is “fully factory equipped.”

38 (q) ~~Affix on any~~ a new vehicle a supplemental price sticker  
39 containing a price that represents the dealer’s asking price ~~which~~

1 *that* exceeds the manufacturer's suggested retail price unless all  
2 of the following occur:

3 (1) The supplemental sticker clearly and conspicuously  
4 discloses in the largest print appearing on the sticker, other than  
5 the print size used for the dealer's name, that the supplemental  
6 sticker price is the dealer's asking price, or words of similar  
7 import, and that it is not the manufacturer's suggested retail  
8 price.

9 (2) The supplemental sticker clearly and conspicuously  
10 discloses the manufacturer's suggested retail price.

11 (3) The supplemental sticker lists each item ~~that~~ *which* is not  
12 included in the manufacturer's suggested retail price, and  
13 discloses the additional price of each item. If the supplemental  
14 sticker price is greater than the sum of the manufacturer's  
15 suggested retail price and the price of the items added by the  
16 dealer, then the supplemental sticker price shall set forth that  
17 difference and describe it as "added mark-up."

18 (r) Advertise ~~any~~ *an* underselling claim, ~~such as~~ *including, but*  
19 *not limited to*, "we have the lowest prices" or "we will beat any  
20 dealer's price," unless the dealer has conducted a recent survey  
21 showing that the dealer sells its vehicles at lower prices than ~~any~~  
22 ~~other~~ *another* licensee in its trade area and maintains records to  
23 adequately substantiate the claims. The substantiating records  
24 shall be made available to the department upon request.

25 (s) Advertise ~~any~~ *an* incentive offered by the manufacturer or  
26 distributor if the dealer is required to contribute to the cost of the  
27 incentive as a condition of participating in the incentive program,  
28 unless the dealer discloses in a clear and conspicuous manner  
29 that dealer participation may affect consumer cost.

30 For purposes of this subdivision, "incentive" means anything  
31 of value offered to induce people to purchase a vehicle,  
32 including, but not limited to, discounts, savings claims, rebates,  
33 below-market finance rates, and free merchandise or services.

34 (t) Display or offer for sale ~~any~~ *a* used vehicle unless there is  
35 affixed to the vehicle the Federal Trade Commission's Buyer's  
36 Guide as required by Part 455 of Title 16 of the Code of Federal  
37 Regulations.

38 (u) Fail to disclose in writing to the franchisor of a new motor  
39 vehicle dealer the name of the purchaser, date of sale, and the  
40 vehicle identification number of each new motor vehicle sold of

1 the line-make of that franchisor, or intentionally submit to that  
2 franchisor a false name for the purchaser or false date for the date  
3 of sale.

4 (v) Enter into a contract for the retail sale of a motor vehicle  
5 unless the contract clearly and conspicuously discloses whether  
6 the vehicle is being sold as a new vehicle or a used vehicle, as  
7 defined in this code.

8 (w) Use a simulated check, as defined in subdivision (a) of  
9 Section 22433 of the Business and Professions Code, in an  
10 advertisement for the sale or lease of a vehicle.

11 (x) Fail to disclose, in a clear and conspicuous manner in at  
12 least 10-point bold type on the face of ~~any~~ a contract for the retail  
13 sale of a new motor vehicle that this transaction is, or is not,  
14 subject to a fee received by an autobroker from the selling new  
15 motor vehicle dealer, and the name of the autobroker, if  
16 applicable.

17 (y) As used in this section, the terms “make” and “model”  
18 have the same meaning as is provided in Section 565.3 of Title  
19 49 of the Code of Federal Regulations.

20 ~~SECTION 1. Section 65302.1 of the Government Code is~~  
21 ~~amended to read:~~

22 ~~65302.1. (a) The Legislature finds and declares all of the~~  
23 ~~following:~~

24 ~~(1) That California has a serious air pollution problem that is~~  
25 ~~the result of many factors, including pollution from both mobile~~  
26 ~~and stationary sources. The ongoing problem of air pollution has~~  
27 ~~had a significant impact on public health. According to the~~  
28 ~~California Air Resources Board, over 90 percent of Californians~~  
29 ~~breathe unhealthy levels of one or more air pollutants during~~  
30 ~~some part of the year. The health effects of some of these~~  
31 ~~common pollutants include respiratory disease, lung damage,~~  
32 ~~premature deaths, cancer, reduced mental alertness, neurological~~  
33 ~~and reproductive disorders, chronic eye, lung, or skin irritation,~~  
34 ~~chest pain, headaches, and nausea. In addition, air pollution can~~  
35 ~~and does have a serious impact on California’s economy and can~~  
36 ~~result in the loss of federal funding for transportation projects~~  
37 ~~important to a thriving state economy. Solving this problem~~  
38 ~~requires the cooperation of land use and transportation planning~~  
39 ~~agencies, transit operators, the business and development~~

1 communities, air quality management districts, air pollution  
 2 control districts, and the public.

3 (2) The regulation of air quality is generally the responsibility  
 4 of regional, state, and federal agencies who, through their efforts  
 5 and responsibility to establish and enforce policies such as auto  
 6 emission standards and permits, require the best available control  
 7 technology on stationary sources.

8 (3) Many of the sources of air pollution are a result of actions,  
 9 uses, and sources over which cities and counties have no control.  
 10 These include, but are not limited to, the following:

11 (A) Air pollutants transported from other communities or other  
 12 air basins.

13 (B) State or federal highways.

14 (C) Emissions from powerplants and other large stationary  
 15 sources that are regional in nature and which are regulated by  
 16 state or federal agencies.

17 (D) Emissions from railroads, ports, airports, and other  
 18 federally regulated sources.

19 (E) Emissions from stationary sources, which are regulated by  
 20 local air pollution control districts and air quality management  
 21 districts.

22 (F) Existing land use and transportation patterns.

23 (G) Emissions from mobile sources, whose emission standards  
 24 are regulated by the state and federal governments.

25 (H) Pollutants generated by agricultural activity.

26 (4) The Legislature recognizes that, in making local planning  
 27 and land use decisions, cities and counties must balance air  
 28 quality with other state and local policies and priorities, such as  
 29 promoting housing development, the protection and conservation  
 30 of farmland, natural resources, and open space, the avoidance of  
 31 natural hazards, the promotion of job growth and economic  
 32 development, and other issues of local, regional, and statewide  
 33 importance.

34 (5) The Legislature further recognizes that, in making local  
 35 planning and land use decisions, cities and counties should adopt  
 36 policies and strategies to improve air quality in their  
 37 communities. These policies and strategies may include, where  
 38 feasible, encouraging infill development and efficient  
 39 development patterns by ensuring all of the following:

1 ~~(A) That any infrastructure associated with development that~~  
2 ~~is not infill supports new development that uses land efficiently.~~

3 ~~(B) That the development is built adjacent to existing~~  
4 ~~developed areas to the extent consistent with state planning~~  
5 ~~priorities to protect environmental and agricultural resources.~~

6 ~~(C) That the development is located in an area appropriately~~  
7 ~~planned for growth.~~

8 ~~(D) That the development is served by adequate transportation~~  
9 ~~and other essential utilities and services.~~

10 ~~(E) That the development minimizes ongoing costs to~~  
11 ~~taxpayers.~~

12 ~~(b) The legislative body of each city and county shall either~~  
13 ~~adopt an air quality element as part of its general plan or amend~~  
14 ~~the appropriate elements of its general plan, which may include,~~  
15 ~~but are not limited to, the required elements dealing with land~~  
16 ~~use, circulation, housing, conservation, and open space, to~~  
17 ~~include data and analyses, goals, policies, and objectives, and~~  
18 ~~feasible implementation strategies intended to contribute to and~~  
19 ~~complement other local, regional, state, and federal strategies to~~  
20 ~~improve air quality.~~

21 ~~(c) The adoption of an air quality element or the amendment~~  
22 ~~of a general plan to comply with the requirements of subdivision~~  
23 ~~(b) shall include all of the following:~~

24 ~~(1) A report describing local air quality conditions including~~  
25 ~~air quality monitoring data, emission inventories, lists of~~  
26 ~~significant source categories, attainment status and designations,~~  
27 ~~and applicable state and federal air quality plans and~~  
28 ~~transportation plans. This report shall include a summary of~~  
29 ~~local, district, state, and federal policies, programs, and~~  
30 ~~regulations that may improve air quality in the city or county.~~  
31 ~~The city or county shall base this report on information provided~~  
32 ~~to the city or county by the air pollution control district or air~~  
33 ~~quality management district in which the city or county is located~~  
34 ~~and may incorporate that information by reference.~~

35 ~~(2) A comprehensive set of goals, policies, and objectives that~~  
36 ~~contribute to and complement other federal, state, regional, and~~  
37 ~~local strategies to improve air quality.~~

38 ~~(3) A set of feasible implementation measures designed to~~  
39 ~~carry out those goals, policies, and objectives. Implementation~~  
40 ~~measures include only those measures to reduce air emissions~~

1 over which the city or county has control and shall be balanced  
2 with other state and local policies.

3 ~~(d) The adoption of an air quality element or the amendment~~  
4 ~~of a general plan to comply with the requirements of subdivision~~  
5 ~~(g) shall not prohibit cities and counties from encouraging the~~  
6 ~~phasing in of a development, comprehensive planning, or a~~  
7 ~~mixed-use development, including residential developments near~~  
8 ~~transit centers to reduce traffic congestion and provide housing~~  
9 ~~near these transit centers.~~

10 ~~(e) At least 45 days prior to the adoption of an air quality~~  
11 ~~element or the amendment of a general plan pursuant to this~~  
12 ~~section, each city and county shall send a copy of its draft~~  
13 ~~document to the air quality management district or air pollution~~  
14 ~~control district in which the city or county is located. The district~~  
15 ~~may review the draft elements or draft amendments to determine~~  
16 ~~whether they will contribute to improved air quality in the~~  
17 ~~planning area. Within 30 days of receiving the draft elements or~~  
18 ~~draft amendments, the district shall send any comments and~~  
19 ~~recommendations to the city or county. The legislative body of~~  
20 ~~the city or county shall consider the district's comments and~~  
21 ~~recommendations prior to the final adoption of air quality~~  
22 ~~amendments to the general plan. If the district's comments and~~  
23 ~~recommendations are not available by the time scheduled for the~~  
24 ~~final adoption of the air quality element or amendments to the~~  
25 ~~general plan, the legislative body of the city or county may act~~  
26 ~~without them. The district's comments and recommendations~~  
27 ~~shall be advisory to the city or county.~~

28 ~~(f) (1) The legislative body of each city and county within the~~  
29 ~~jurisdictional boundaries of the San Joaquin Valley Air Pollution~~  
30 ~~Control District shall comply with this section no later than one~~  
31 ~~year from the date specified in Section 65588 for the next~~  
32 ~~revision of its housing element that occurs after January 1, 2004.~~

33 ~~(2) The legislative bodies of the cities and counties located~~  
34 ~~within the Sacramento Valley Air Basin, the San Francisco Bay~~  
35 ~~Area Air Basin, the South Central Coast Air Basin, the South~~  
36 ~~Coast Air Basin, the San Diego Air Basin, and the Salton Sea Air~~  
37 ~~Basin as designated by the California Air Resources Board, shall~~  
38 ~~comply with this section no later than one year from the date~~  
39 ~~specified in Section 65588 for the next revision of its housing~~  
40 ~~element that occurs after January 1, 2007.~~

1 ~~(3) The legislative bodies of all other cities and counties shall~~  
2 ~~comply with this section during their next general plan update,~~  
3 ~~but no later than one year from the date specified in Section~~  
4 ~~65588 for the fifth revision of its housing element that occurs~~  
5 ~~after January 1, 2007. These local agencies, in consultation with~~  
6 ~~their local air districts, shall only be required to address those~~  
7 ~~nonattainment criteria pollutants attributed to sources within their~~  
8 ~~jurisdiction in a manner relative to their air quality problem as~~  
9 ~~identified by data and information and appropriate to their area.~~

10 ~~(g) A city or county that has adopted an air quality element or~~  
11 ~~amendments to its general plan to address air quality, prior to~~  
12 ~~January 1, 2007, shall be deemed to have met the requirements of~~  
13 ~~this section if the city or county makes a written finding that the~~  
14 ~~element or amendments have addressed local air quality issues~~  
15 ~~that are substantially consistent with the objectives of this~~  
16 ~~section.~~

17 ~~(h) The Legislature does not intend that cities and counties, in~~  
18 ~~implementing this section, duplicate actions that are the~~  
19 ~~responsibility of the air quality management districts, air~~  
20 ~~pollution control districts, or metropolitan planning~~  
21 ~~organizations.~~

22 ~~SEC. 2. Nothing in this act shall be interpreted to expand the~~  
23 ~~application of the California Environmental Quality Act~~  
24 ~~(Division 13 (commencing with Section 21000) of the Public~~  
25 ~~Resources Code), the existing authorities of the affected local~~  
26 ~~governments, or any air quality management district or air~~  
27 ~~pollution control district.~~

28 ~~SEC. 3. The Legislature finds and declares that Sections~~  
29 ~~65104 and 66014 of the Government Code provide local agencies~~  
30 ~~with authority to levy fees sufficient to pay for the program or~~  
31 ~~level of service mandated by this act.~~

32 ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
33 ~~Section 6 of Article XIII B of the California Constitution because~~  
34 ~~a local agency or school district has the authority to levy service~~  
35 ~~charges, fees, or assessments sufficient to pay for the program or~~  
36 ~~level of service mandated by this act, within the meaning of~~  
37 ~~Section 17556 of the Government Code.~~

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