

AMENDED IN ASSEMBLY JUNE 20, 2006

SENATE BILL

No. 927

Introduced by Senator Lowenthal

February 22, 2005

An act to amend Sections 65089.6, 65302, 66484, and 66484.3 of the Government Code, to amend Section 99150 of the Public Utilities Code, to amend Section 75.9 of the Streets and Highways Code, and to amend Sections 21101 and 35701 of the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, as amended, Lowenthal. General plans: *circulation and transportation element*.

Existing law requires a general plan to include a statement of development policies and, among other elements, a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would rename the circulation element the *circulation and transportation element* and make other technical and conforming changes.

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

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

1 SECTION 1. Section 65089.6 of the Government Code is
2 amended to read:

1 65089.6. Failure to complete or implement a congestion
2 management program shall not give rise to a cause of action
3 against a city or county for failing to conform with its general
4 plan, unless the city or county incorporates the congestion
5 management program into the *circulation and* transportation
6 element of its general plan.

7 SEC. 2. Section 65302 of the Government Code is amended
8 to read:

9 65302. The general plan shall consist of a statement of
10 development policies and shall include a diagram or diagrams
11 and text setting forth objectives, principles, standards, and plan
12 proposals. The plan shall include the following elements:

13 (a) A land use element that designates the proposed general
14 distribution and general location and extent of the uses of the
15 land for housing, business, industry, open space, including
16 agriculture, natural resources, recreation, and enjoyment of
17 scenic beauty, education, public buildings and grounds, solid and
18 liquid waste disposal facilities, and other categories of public and
19 private uses of land. The land use element shall include a
20 statement of the standards of population density and building
21 intensity recommended for the various districts and other
22 territory covered by the plan. The land use element shall identify
23 areas covered by the plan which are subject to flooding and shall
24 be reviewed annually with respect to those areas. The land use
25 element shall also do both of the following:

26 (1) Designate in a land use category that provides for timber
27 production those parcels of real property zoned for timberland
28 production pursuant to the California Timberland Productivity
29 Act of 1982, Chapter 6.7 (commencing with Section 51100) of
30 Part 1 of Division 1 of Title 5.

31 (2) Consider the impact of new growth on military readiness
32 activities carried out on military bases, installations, and
33 operating and training areas, when proposing zoning ordinances
34 or designating land uses covered by the general plan for land, or
35 other territory adjacent to military facilities, or underlying
36 designated military aviation routes and airspace.

37 (A) In determining the impact of new growth on military
38 readiness activities, information provided by military facilities
39 shall be considered. Cities and counties shall address military

1 impacts based on information from the military and other
2 sources.

3 (B) The following definitions govern this paragraph:

4 (i) “Military readiness activities” mean all of the following:

5 (I) Training, support, and operations that prepare the men and
6 women of the military for combat.

7 (II) Operation, maintenance, and security of any military
8 installation.

9 (III) Testing of military equipment, vehicles, weapons, and
10 sensors for proper operation or suitability for combat use.

11 (ii) “Military installation” means a base, camp, post, station,
12 yard, center, homeport facility for any ship, or other activity
13 under the jurisdiction of the United States Department of Defense
14 as defined in paragraph (1) of subsection (e) of Section 2687 of
15 Title 10 of the United States Code.

16 (b) A *circulation and* transportation element consisting of the
17 general location and extent of existing and proposed major
18 thoroughfares, transportation routes, terminals, any military
19 airports and ports, and other local public utilities and facilities,
20 all correlated with the land use element of the plan.

21 (c) A housing element as provided in Article 10.6
22 (commencing with Section 65580).

23 (d) A conservation element for the conservation, development,
24 and utilization of natural resources including water and its
25 hydraulic force, forests, soils, rivers and other waters, harbors,
26 fisheries, wildlife, minerals, and other natural resources. The
27 conservation element shall consider the effect of development
28 within the jurisdiction, as described in the land use element, on
29 natural resources located on public lands, including military
30 installations. That portion of the conservation element including
31 waters shall be developed in coordination with any countywide
32 water agency and with all district and city agencies that have
33 developed, served, controlled, or conserved water for any
34 purpose for the county or city for which the plan is prepared.
35 Coordination shall include the discussion and evaluation of any
36 water supply and demand information described in Section
37 65352.5, if that information has been submitted by the water
38 agency to the city or county. The conservation element may also
39 cover the following:

40 (1) The reclamation of land and waters.

1 (2) Prevention and control of the pollution of streams and
2 other waters.

3 (3) Regulation of the use of land in stream channels and other
4 areas required for the accomplishment of the conservation plan.

5 (4) Prevention, control, and correction of the erosion of soils,
6 beaches, and shores.

7 (5) Protection of watersheds.

8 (6) The location, quantity and quality of the rock, sand and
9 gravel resources.

10 (7) Flood control.

11 The conservation element shall be prepared and adopted no
12 later than December 31, 1973.

13 (e) An open-space element as provided in Article 10.5
14 (commencing with Section 65560).

15 (f) A noise element which shall identify and appraise noise
16 problems in the community. The noise element shall recognize
17 the guidelines established by the Office of Noise Control in the
18 State Department of Health Services and shall analyze and
19 quantify, to the extent practicable, as determined by the
20 legislative body, current and projected noise levels for all of the
21 following sources:

22 (1) Highways and freeways.

23 (2) Primary arterials and major local streets.

24 (3) Passenger and freight online railroad operations and
25 ground rapid transit systems.

26 (4) Commercial, general aviation, heliport, helistop, and
27 military airport operations, aircraft overflights, jet engine test
28 stands, and all other ground facilities and maintenance functions
29 related to airport operation.

30 (5) Local industrial plants, including, but not limited to,
31 railroad classification yards.

32 (6) Other ground stationary noise sources, including, but not
33 limited to, military installations, identified by local agencies as
34 contributing to the community noise environment.

35 Noise contours shall be shown for all of these sources and
36 stated in terms of community noise equivalent level (CNEL) or
37 day-night average level (L_{dn}). The noise contours shall be
38 prepared on the basis of noise monitoring or following generally
39 accepted noise modeling techniques for the various sources
40 identified in paragraphs (1) to (6), inclusive.

1 The noise contours shall be used as a guide for establishing a
2 pattern of land uses in the land use element that minimizes the
3 exposure of community residents to excessive noise.

4 The noise element shall include implementation measures and
5 possible solutions that address existing and foreseeable noise
6 problems, if any. The adopted noise element shall serve as a
7 guideline for compliance with the state's noise insulation
8 standards.

9 (g) A safety element for the protection of the community from
10 any unreasonable risks associated with the effects of seismically
11 induced surface rupture, ground shaking, ground failure, tsunami,
12 seiche, and dam failure; slope instability leading to mudslides
13 and landslides; subsidence, liquefaction and other seismic
14 hazards identified pursuant to Chapter 7.8 (commencing with
15 Section 2690) of the Public Resources Code, and other geologic
16 hazards known to the legislative body; flooding; and wild land
17 and urban fires. The safety element shall include mapping of
18 known seismic and other geologic hazards. It shall also address
19 evacuation routes, military installations, peakload water supply
20 requirements, and minimum road widths and clearances around
21 structures, as those items relate to identified fire and geologic
22 hazards.

23 (1) Prior to the periodic review of its general plan and prior to
24 preparing or revising its safety element, each city and county
25 shall consult the Division of Mines and Geology of the
26 Department of Conservation and the Office of Emergency
27 Services for the purpose of including information known by and
28 available to the department and the office required by this
29 subdivision.

30 (2) To the extent that a county's safety element is sufficiently
31 detailed and contains appropriate policies and programs for
32 adoption by a city, a city may adopt that portion of the county's
33 safety element that pertains to the city's planning area in
34 satisfaction of the requirement imposed by this subdivision.

35 SEC. 3. Section 66484 of the Government Code is amended
36 to read:

37 66484. (a) A local ordinance may require the payment of a
38 fee as a condition of approval of a final map or as a condition of
39 issuing a building permit for purposes of defraying the actual or
40 estimated cost of constructing bridges over waterways, railways,

1 freeways, and canyons, or constructing major thoroughfares. The
2 ordinance may require payment of fees pursuant to this section if
3 all of the following requirements are satisfied:

4 (1) The ordinance refers to the *circulation and* transportation
5 element of the general plan and, in the case of bridges, to the
6 transportation or flood control provisions thereof which identify
7 railways, freeways, streams, or canyons for which bridge
8 crossings are required on the general plan or local roads and in
9 the case of major thoroughfares, to the provisions of the
10 *circulation and* transportation element which identify those
11 major thoroughfares whose primary purpose is to carry through
12 traffic and provide a network connecting to the state highway
13 system, if the *circulation and* transportation element,
14 transportation or flood control provisions have been adopted by
15 the local agency 30 days prior to the filing of a map or
16 application for a building permit.

17 (2) The ordinance provides that there will be a public hearing
18 held by the governing body for each area benefited. Notice shall
19 be given pursuant to Section 65091 and shall include preliminary
20 information related to the boundaries of the area of benefit,
21 estimated cost, and the method of fee apportionment. The area of
22 benefit may include land or improvements in addition to the land
23 or improvements which are the subject of any map or building
24 permit application considered at the proceedings.

25 (3) The ordinance provides that at the public hearing, the
26 boundaries of the area of benefit, the costs, whether actual or
27 estimated, and a fair method of allocation of costs to the area of
28 benefit and fee apportionment are established. The method of fee
29 apportionment, in the case of major thoroughfares, shall not
30 provide for higher fees on land which abuts the proposed
31 improvement except where the abutting property is provided
32 direct usable access to the major thoroughfare. A description of
33 the boundaries of the area of benefit, the costs, whether actual or
34 estimated, and the method of fee apportionment established at the
35 hearing shall be incorporated in a resolution of the governing
36 body, a certified copy of which shall be recorded by the
37 governing body conducting the hearing with the recorder of the
38 county in which the area of benefit is located. The apportioned
39 fees shall be applicable to all property within the area of benefit
40 and shall be payable as a condition of approval of a final map or

1 as a condition of issuing a building permit for the property or
2 portions of the property. Where the area of benefit includes lands
3 not subject to the payment of fees pursuant to this section, the
4 governing agency shall make provision for payment of the share
5 of improvement costs apportioned to those lands from other
6 sources.

7 (4) The ordinance provides that payment of fees shall not be
8 required unless the major thoroughfares are in addition to, or a
9 reconstruction of, any existing major thoroughfares serving the
10 area at the time of the adoption of the boundaries of the area of
11 benefit.

12 (5) The ordinance provides that payment of fees shall not be
13 required unless the planned bridge facility is an original bridge
14 serving the area or an addition to any existing bridge facility
15 serving the area at the time of the adoption of the boundaries of
16 the area of benefit. The fees shall not be expended to reimburse
17 the cost of existing bridge facility construction.

18 (6) The ordinance provides that if, within the time when
19 protests may be filed under the provisions of the ordinance, there
20 is a written protest, filed with the clerk of the legislative body, by
21 the owners of more than one-half of the area of the property to be
22 benefited by the improvement, and sufficient protests are not
23 withdrawn so as to reduce the area represented to less than
24 one-half of that to be benefited, then the proposed proceedings
25 shall be abandoned, and the legislative body shall not, for one
26 year from the filing of that written protest, commence or carry on
27 any proceedings for the same improvement or acquisition under
28 the provisions of this section.

29 (b) Any protest may be withdrawn by the owner protesting, in
30 writing, at any time prior to the conclusion of a public hearing
31 held pursuant to the ordinance.

32 (c) If any majority protest is directed against only a portion of
33 the improvement then all further proceedings under the
34 provisions of this section to construct that portion of the
35 improvement so protested against shall be barred for a period of
36 one year, but the legislative body may commence new
37 proceedings not including any part of the improvement or
38 acquisition so protested against. Nothing in this section prohibits
39 a legislative body, within that one-year period, from commencing
40 and carrying on new proceedings for the construction of a portion

1 of the improvement so protested against if it finds, by the
2 affirmative vote of four-fifths of its members, that the owners of
3 more than one-half of the area of the property to be benefited are
4 in favor of going forward with that portion of the improvement or
5 acquisition.

6 (d) Nothing in this section precludes the processing and
7 recordation of maps in accordance with other provisions of this
8 division if the proceedings are abandoned.

9 (e) Fees paid pursuant to an ordinance adopted pursuant to this
10 section shall be deposited in a planned bridge facility or major
11 thoroughfare fund. A fund shall be established for each planned
12 bridge facility project or each planned major thoroughfare
13 project. If the benefit area is one in which more than one bridge
14 is required to be constructed, a fund may be so established
15 covering all of the bridge projects in the benefit area. Money in
16 the fund shall be expended solely for the construction or
17 reimbursement for construction of the improvement serving the
18 area to be benefited and from which the fees comprising the fund
19 were collected, or to reimburse the local agency for the cost of
20 constructing the improvement.

21 (f) An ordinance adopted pursuant to this section may provide
22 for the acceptance of considerations in lieu of the payment of
23 fees.

24 (g) A local agency imposing fees pursuant to this section may
25 advance money from its general fund or road fund to pay the cost
26 of constructing the improvements and may reimburse the general
27 fund or road fund for any advances from planned bridge facility
28 or major thoroughfares funds established to finance the
29 construction of those improvements.

30 (h) A local agency imposing fees pursuant to this section may
31 incur an interest-bearing indebtedness for the construction of
32 bridge facilities or major thoroughfares. However, the sole
33 security for repayment of that indebtedness shall be moneys in
34 planned bridge facility or major thoroughfares funds.

35 (i) The term “construction” as used in this section includes
36 design, acquisition of right-of-way, administration of
37 construction contracts, and actual construction.

38 (j) The term “construction,” as used in this section, with
39 respect to the unincorporated area of San Diego County only,
40 includes design, acquisition of rights-of-way, and actual

1 construction, including, but not limited to, all direct and indirect
2 environmental, engineering, accounting, legal, administration of
3 construction contracts, and other services necessary therefor. The
4 term “construction,” with respect to the unincorporated area of
5 San Diego County only, also includes reasonable administrative
6 expenses, not exceeding three hundred thousand dollars
7 (\$300,000) in any calendar year after January 1, 1986, as
8 adjusted annually for any increase or decrease in the Consumer
9 Price Index of the Bureau of Labor Statistics of the United States
10 Department of Labor for all Urban Consumers, San Diego,
11 California (1967 = 100), as published by the United States
12 Department of Commerce for the purpose of constructing bridges
13 and major thoroughfares. “Administrative expenses” means those
14 office, personnel, and other customary and normal expenses
15 associated with the direct management and administration of the
16 agency, but not including costs of construction.

17 (k) Nothing in this section precludes a county or city from
18 providing funds for the construction of bridge facilities or major
19 thoroughfares to defray costs not allocated to the area of benefit.

20 SEC. 4. Section 66484.3 of the Government Code is amended
21 to read:

22 66484.3. (a) Notwithstanding Section 53077.5, the Board of
23 Supervisors of the County of Orange and the city council or
24 councils of any city or cities in that county may, by ordinance,
25 require the payment of a fee as a condition of approval of a final
26 map or as a condition of issuing a building permit for purposes of
27 defraying the actual or estimated cost of constructing bridges
28 over waterways, railways, freeways, and canyons, or constructing
29 major thoroughfares.

30 (b) The local ordinance may require payment of fees pursuant
31 to this section if:

32 (1) The ordinance refers to the *circulation and* transportation
33 element of the general plan and, in the case of bridges, to the
34 transportation provisions or flood control provisions of the
35 general plan which identify railways, freeways, streams, or
36 canyons for which bridge crossings are required on the general
37 plan or local roads, and in the case of major thoroughfares, to the
38 provisions of the *circulation and* transportation element which
39 identify those major thoroughfares whose primary purpose is to
40 carry through traffic and provide a network connecting to or

1 which is part of the state highway system, and the *circulation*
2 *and* transportation element, transportation provisions, or flood
3 control provisions have been adopted by the local agency 30 days
4 prior to the filing of a map or application for a building permit.
5 Bridges which are part of a major thoroughfare need not be
6 separately identified in the transportation or flood control
7 provisions of the general plan.

8 (2) The ordinance provides that there will be a public hearing
9 held by the governing body for each area benefited. Notice shall
10 be given pursuant to Section 65905. In addition to the
11 requirements of Section 65905, the notice shall contain
12 preliminary information related to the boundaries of the area of
13 benefit, estimated cost, and the method of fee apportionment.
14 The area of benefit may include land or improvements in
15 addition to the land or improvements which are the subject of any
16 map or building permit application considered at the proceedings.

17 (3) The ordinance provides that at the public hearing, the
18 boundaries of the area of benefit, the costs, whether actual or
19 estimated, and a fair method of allocation of costs to the area of
20 benefit and fee apportionment are established. The method of fee
21 apportionment, in the case of major thoroughfares, shall not
22 provide for higher fees on land which abuts the proposed
23 improvement except where the abutting property is provided
24 direct usable access to the major thoroughfare. A description of
25 the boundaries of the area of benefit, the costs, whether actual or
26 estimated, and the method of fee apportionment established at the
27 hearing shall be incorporated in a resolution of the governing
28 body, a certified copy of which shall be recorded by the
29 governing body conducting the hearing with the recorder of the
30 County of Orange. The resolution may subsequently be modified
31 in any respect by the governing body. Modifications shall be
32 adopted in the same manner as the original resolution, except that
33 the resolution of a city or county which has entered into a joint
34 exercise of powers agreement pursuant to subdivision (f), relating
35 to constructing bridges over waterways, railways, freeways, and
36 canyons or constructing major thoroughfares by the joint powers
37 agency, may be modified by the joint powers agency following
38 public notice and a public hearing, if the joint powers agency has
39 complied with all applicable laws, including Chapter 5
40 (commencing with Section 66000) of Division 1. Any

1 modification shall be subject to the protest procedures prescribed
2 by paragraph (6). The resolution may provide for automatic
3 periodic adjustment of fees based upon the California
4 Construction Cost Index prepared and published by the
5 Department of Transportation, without further action of the
6 governing body, including, but not limited to, public notice or
7 hearing. The apportioned fees shall be applicable to all property
8 within the area of benefit and shall be payable as a condition of
9 approval of a final map or as a condition of issuing a building
10 permit for any of the property or portions of the property. Where
11 the area of benefit includes lands not subject to the payment of
12 fees pursuant to this section, the governing body shall make
13 provision for payment of the share of improvement costs
14 apportioned to those lands from other sources, but those sources
15 need not be identified at the time of the adoption of the
16 resolution.

17 (4) The ordinance provides that payment of fees shall not be
18 required unless the major thoroughfares are in addition to, or a
19 reconstruction or widening of, any existing major thoroughfares
20 serving the area at the time of the adoption of the boundaries of
21 the area of benefit.

22 (5) The ordinance provides that payment of fees shall not be
23 required unless the planned bridge facility is an original bridge
24 serving the area or an addition to any existing bridge facility
25 serving the area at the time of the adoption of the boundaries of
26 the area of benefit. Fees imposed pursuant to this section shall
27 not be expended to reimburse the cost of existing bridge facility
28 construction, unless these costs are incurred in connection with
29 the construction of an addition to an existing bridge for which
30 fees may be required.

31 (6) The ordinance provides that if, within the time when
32 protests may be filed under its provisions, there is a written
33 protest, filed with the clerk of the legislative body, by the owners
34 of more than one-half of the area of the property to be benefited
35 by the improvement, and sufficient protests are not withdrawn so
36 as to reduce the area represented to less than one-half of that to
37 be benefited, then the proposed proceedings shall be abandoned,
38 and the legislative body shall not, for one year from the filing of
39 that written protest, commence or carry on any proceedings for
40 the same improvement or acquisition under this section, unless

1 the protests are overruled by an affirmative vote of four-fifths of
2 the legislative body.

3 Nothing in this section shall preclude the processing and
4 recordation of maps in accordance with other provisions of this
5 division if proceedings are abandoned.

6 Any protests may be withdrawn in writing by the owner who
7 filed the protest, at any time prior to the conclusion of a public
8 hearing held pursuant to the ordinance.

9 If any majority protest is directed against only a portion of the
10 improvement then all further proceedings under the provisions of
11 this section to construct that portion of the improvement so
12 protested against shall be barred for a period of one year, but the
13 legislative body shall not be barred from commencing new
14 proceedings not including any part of the improvement or
15 acquisition so protested against. Nothing in this section shall
16 prohibit the legislative body, within the one-year period, from
17 commencing and carrying on new proceedings for the
18 construction of a portion of the improvement so protested against
19 if it finds, by the affirmative vote of four-fifths of its members,
20 that the owners of more than one-half of the area of the property
21 to be benefited are in favor of going forward with that portion of
22 the improvement or acquisition.

23 If the provisions of this paragraph (6), or provisions
24 implementing this paragraph contained in any ordinance adopted
25 pursuant to this section, are held invalid, that invalidity shall not
26 affect other provisions of this section or of the ordinance adopted
27 pursuant thereto, which can be given effect without the invalid
28 provision, and to this end the provisions of this section and of an
29 ordinance adopted pursuant thereto are severable.

30 (c) Fees paid pursuant to an ordinance adopted pursuant to this
31 section shall be deposited in a planned bridge facility or major
32 thoroughfare fund. A fund shall be established for each planned
33 bridge facility project or each planned major thoroughfare
34 project. If the benefit area is one in which more than one bridge
35 or major thoroughfare is required to be constructed, a fund may
36 be so established covering all of the bridge or major thoroughfare
37 projects in the benefit area. Except as otherwise provided in
38 subdivision (g), moneys in the fund shall be expended solely for
39 the construction or reimbursement for construction of the
40 improvement serving the area to be benefited and from which the

1 fees comprising the fund were collected, or to reimburse the
2 county or a city for the cost of constructing the improvement.

3 (d) An ordinance adopted pursuant to this section may provide
4 for the acceptance of considerations in lieu of the payment of
5 fees.

6 (e) The county or a city imposing fees pursuant to this section
7 may advance money from its general fund or road fund to pay the
8 cost of constructing the improvements and may reimburse the
9 general fund or road fund from planned bridge facilities or major
10 thoroughfares funds established to finance the construction of the
11 improvements.

12 (f) The county or a city imposing fees pursuant to this section
13 may incur an interest-bearing indebtedness for the construction
14 of bridge facilities or major thoroughfares. The sole security for
15 repayment of the indebtedness shall be moneys in planned bridge
16 facilities or major thoroughfares funds. A city or county
17 imposing fees pursuant to this section may enter into joint
18 exercise of powers agreements with other local agencies
19 imposing fees pursuant to this section, for the purpose of, among
20 others, jointly exercising as a duly authorized original power
21 established by this section, in addition to those through a joint
22 exercise of powers agreement, those powers authorized in
23 Chapter 5 (commencing with Section 31100) of Division 17 of
24 the Streets and Highways Code for the purpose of constructing
25 bridge facilities and major thoroughfares in lieu of a tunnel and
26 appurtenant facilities, and, notwithstanding Section 31200 of the
27 Streets and Highways Code, may acquire by dedication, gift,
28 purchase, or eminent domain, any franchise, rights, privileges,
29 easements, or other interest in property, either real or personal,
30 necessary therefor on segments of the state highway system,
31 including, but not limited to, those segments of the state highway
32 system eligible for federal participation pursuant to Title 23 of
33 the United States Code.

34 An entity constructing bridge facilities and major
35 thoroughfares pursuant to this section shall design and construct
36 the bridge facilities and major thoroughfares to the standards and
37 specifications of the Department of Transportation then in effect,
38 and may, at any time, transfer all or a portion of the bridge
39 facilities and major thoroughfares to the state subject to the terms
40 and conditions as shall be satisfactory to the Director of the

1 Department of Transportation. Any of these bridge facilities and
2 major thoroughfares shall be designated as a portion of the state
3 highway system prior to its transfer. The participants in a joint
4 exercise of powers agreement may also exercise as a duly
5 authorized original power established by this section the power to
6 establish and collect toll charges only for paying for the costs of
7 construction of the major thoroughfare for which the toll is
8 charged and for the costs of collecting the tolls, except that a
9 joint powers agency, which is the lending agency, may,
10 notwithstanding subdivision (c), make toll revenues and fees
11 imposed pursuant to this section available to another joint powers
12 agency, which is the borrowing agency, established for the
13 purpose of designing, financing, and constructing coordinated
14 and interrelated major thoroughfares, in the form of a
15 subordinated loan, to pay for the cost of construction and toll
16 collection of major thoroughfares other than the major
17 thoroughfares for which the toll or fee is charged, if the lending
18 agency has complied with all applicable laws, including Chapter
19 5 (commencing with Section 66000) of Division 1, and if the
20 borrowing agency is required to pay interest on the loan to the
21 lending agency at a rate equal to the interest rate charged on
22 funds loaned from the Pooled Money Investment Account. Prior
23 to executing the loan, the lending agency shall make all of the
24 following findings:

25 (1) The major thoroughfare for which the toll or fee is charged
26 will benefit from the construction of the major thoroughfare to be
27 constructed by the borrowing agency or will benefit financially
28 by a sharing of revenues with the borrowing agency.

29 (2) The lending agency will possess adequate financial
30 resources to fund all costs of construction of existing and future
31 projects that it plans to undertake prior to the final maturity of the
32 loan, after funding the loan, and taking into consideration its then
33 existing funds, its present and future obligations, and the
34 revenues and fees it expects to receive.

35 (3) The funding of the loan will not materially impair its
36 financial condition or operations during the term of the loan.

37 Major thoroughfares from which tolls are charged shall utilize
38 the toll collection equipment most capable of moving vehicles
39 expeditiously and efficiently, and which is best suited for that
40 purpose, as determined by the participants in the joint exercise of

1 powers agreement. However, in no event shall the powers
2 authorized in Chapter 5 (commencing with Section 31100) of
3 Division 17 of the Streets and Highways Code be exercised
4 unless a resolution is first adopted by the legislative body of the
5 agency finding that adequate funding for the portion of the cost
6 of constructing those bridge facilities and major thoroughfares
7 not funded by the development fees collected by the agency is
8 not available from any federal, state, or other source. Any major
9 thoroughfare constructed and operated as a toll road pursuant to
10 this section shall only be constructed parallel to other public
11 thoroughfares and highways.

12 (g) The term “construction,” as used in this section, includes
13 design, acquisition of rights-of-way, and actual construction,
14 including, but not limited to, all direct and indirect
15 environmental, engineering, accounting, legal, administration of
16 construction contracts, and other services necessary therefor. The
17 term “construction” also includes reasonable general agency
18 administrative expenses, not exceeding three hundred thousand
19 dollars (\$300,000) in any calendar year after January 1, 1986, as
20 adjusted annually for any increase or decrease in the Consumer
21 Price Index of the Bureau of Labor Statistics of the United States
22 Department of Labor for all Urban Consumers, Los
23 Angeles-Long Beach-Anaheim, California (1967=100), as
24 published by the United States Department of Commerce, by
25 each agency created pursuant to Article 1 (commencing with
26 Section 6500) of Chapter 5 of Division 7 of Title 1 for the
27 purpose of constructing bridges and major thoroughfares.
28 “General agency administrative expenses” means those office,
29 personnel, and other customary and normal expenses associated
30 with the direct management and administration of the agency, but
31 not including costs of construction.

32 (h) Fees paid pursuant to an ordinance adopted pursuant to this
33 section may be utilized to defray all direct and indirect financing
34 costs related to the construction of the bridges and major
35 thoroughfares by the joint powers agency. Because the financing
36 costs of bridges and major thoroughfares for which a toll charge
37 shall be established or collected represent a necessary element of
38 the total cost of those bridges and major thoroughfares, the joint
39 powers agency constructing those facilities may include a charge
40 for financing costs in the calculation of the fee rate. The charge

1 shall be based on the estimated financing cost of any eligible
2 portion of the bridges and major thoroughfares for which tolls
3 shall be collected. The eligible portion shall be any or all portions
4 of the major thoroughfare for which a viable financial plan has
5 been adopted by the joint powers agency on the basis of revenues
6 reasonably expected by the joint powers agency to be available to
7 the thoroughfare, after consultation with representatives of the
8 fee payers. For purposes of calculating the charge, financing
9 costs shall include only reasonable allowances for payments and
10 charges for principal, interest, and premium on indebtedness,
11 letter of credit fees and charges, remarketing fees and charges,
12 underwriters' discount, and other costs of issuance, less net
13 earnings on bridge and major thoroughfare funds by the joint
14 powers agency prior to the opening of the facility to traffic after
15 giving effect to any payments from the fund to preserve the
16 federal income tax exemption on the indebtedness. For purposes
17 of calculating the charge for financing costs in the calculation of
18 the fee rate only, financing costs shall not include any allowance
19 for the cost of any interest paid on indebtedness with regard to
20 each eligible portion after the estimated opening of the portion to
21 traffic as established by the joint powers agency. Any and all
22 challenges to any financial plan or financing costs adopted or
23 calculated pursuant to this section shall be governed by
24 subdivision (k).

25 (i) Nothing in this section shall be construed to preclude the
26 County of Orange or any city within that county from providing
27 funds for the construction of bridge facilities or major
28 thoroughfares to defray costs not allocated to the area of benefit.

29 (j) Any city within the County of Orange may require the
30 payment of fees in accordance with this section as to any
31 property in an area of benefit within the city's boundaries, for
32 facilities shown on its general plan or the county's general plan,
33 whether the facilities are situated within or outside the
34 boundaries of the city, and the county may expend fees for
35 facilities or portions thereof located within cities in the county.

36 (k) The validity of any fee required pursuant to this section
37 shall not be contested in any action or proceeding unless
38 commenced within 60 days after recordation of the resolution
39 described in paragraph (3) of subdivision (b). The provisions of
40 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of

1 the Code of Civil Procedure shall be applicable to this action or
2 proceeding. This subdivision shall also apply to modifications of
3 fee programs.

4 (l) If the County of Orange and any city within that county
5 have entered into a joint powers agreement for the purpose of
6 constructing the bridges and major thoroughfares referred to in
7 Sections 50029 and 66484.3, and if a proposed change of
8 organization or reorganization includes any territory of an area of
9 benefit established pursuant to Sections 50029 and 66484.3,
10 within a successor local agency, the local agency shall not take
11 any action that would impair, delay, frustrate, obstruct, or
12 otherwise impede the construction of the bridges and major
13 thoroughfares referred to in this section.

14 (m) Nothing in this section prohibits the succession of all
15 powers, obligations, liabilities, and duties of any joint powers
16 agency created pursuant to subdivision (l) to an entity with
17 comprehensive countywide transportation planning and operating
18 authority that is statutorily created in the County of Orange and
19 which is statutorily authorized to assume those powers,
20 obligations, liabilities, and duties.

21 SEC. 5. Section 99150 of the Public Utilities Code is
22 amended to read:

23 99150. In locating its bus stops, park and ride service
24 facilities, and special service terminal points and stations, a
25 transit district shall consult with, and consider the
26 recommendations of, the city if transit facilities are to be located
27 therein, or the county if transit facilities are to be located in the
28 unincorporated area thereof, on the proposed locations.

29 The city or county, as the case may be, in making its
30 recommendations to the transit district on the proposed location
31 of the transit facilities, shall consider whether the proposed
32 location is consistent with the *circulation and* transportation
33 element of its general plan.

34 SEC. 6. Section 75.9 of the Streets and Highways Code is
35 amended to read:

36 75.9. Upon the selection, adoption, and determination of the
37 location for a state highway or freeway, the commission shall
38 notify all planning agencies and legislative bodies having
39 responsibility pursuant to Section 65300 of the Government
40 Code for the adoption of the general plan or plans in the area

1 affected by the commission action. Within 90 days after receipt
2 of such notice, all planning agencies and legislative bodies shall
3 revise the *circulation and* transportation element of their general
4 plans to reflect the commission action.

5 SEC. 7. Section 21101 of the Vehicle Code is amended to
6 read:

7 21101. Local authorities, for those highways under their
8 jurisdiction, may adopt rules and regulations by ordinance or
9 resolution on the following matters:

10 (a) Closing any highway to vehicular traffic when, in the
11 opinion of the legislative body having jurisdiction, the highway
12 is either of the following:

13 (1) No longer needed for vehicular traffic.

14 (2) The closure is in the interests of public safety and all of the
15 following conditions and requirements are met:

16 (A) The street proposed for closure is located in a county with
17 a population of 6,000,000 or more.

18 (B) The street has an unsafe volume of traffic and a significant
19 incidence of crime.

20 (C) The affected local authority conducts a public hearing on
21 the proposed street closure.

22 (D) Notice of the hearing is provided to residents and owners
23 of property adjacent to the street proposed for closure.

24 (E) The local authority makes a finding that closure of the
25 street likely would result in a reduced rate of crime.

26 (b) Designating any highway as a through highway and
27 requiring that all vehicles observe official traffic control devices
28 before entering or crossing the highway or designating any
29 intersection as a stop intersection and requiring all vehicles to
30 stop at one or more entrances to the intersection.

31 (c) Prohibiting the use of particular highways by certain
32 vehicles, except as otherwise provided by the Public Utilities
33 Commission pursuant to Article 2 (commencing with Section
34 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities
35 Code.

36 (d) Closing particular streets during regular school hours for
37 the purpose of conducting automobile driver training programs in
38 the secondary schools and colleges of this state.

39 (e) Temporarily closing a portion of any street for
40 celebrations, parades, local special events, and other purposes

1 when, in the opinion of local authorities having jurisdiction or a
2 public officer or employee that the local authority designates by
3 resolution, the closing is necessary for the safety and protection
4 of persons who are to use that portion of the street during the
5 temporary closing.

6 (f) Prohibiting entry to, or exit from, or both, from any street
7 by means of islands, curbs, traffic barriers, or other roadway
8 design features to implement the *circulation and* transportation
9 element of a general plan adopted pursuant to Article 5
10 (commencing with Section 65300) of Chapter 3 of Division 1 of
11 Title 7 of the Government Code. The rules and regulations
12 authorized by this subdivision shall be consistent with the
13 responsibility of local government to provide for the health and
14 safety of its citizens.

15 SEC. 8. Section 35701 of the Vehicle Code is amended to
16 read:

17 35701. (a) Any city, or county for a residence district, may,
18 by ordinance, prohibit the use of a street by any commercial
19 vehicle or by any vehicle exceeding a maximum gross weight
20 limit, except with respect to any vehicle which is subject to
21 Sections 1031 to 1036, inclusive, of the Public Utilities Code,
22 and except with respect to vehicles used for the collection and
23 transportation of garbage, rubbish, or refuse using traditionally
24 used routes in San Diego County when the solid waste
25 management plan prepared under Section 66780.1 of the
26 Government Code is amended to designate each traditionally
27 used route used for the purpose of transporting garbage, rubbish,
28 or refuse which intersects with a local or regional arterial
29 circulation route contained within a city or county's traffic
30 *circulation and* transportation element and which provides access
31 to a solid waste disposal site.

32 (b) The ordinance shall not be effective until appropriate signs
33 are erected indicating either the streets affected by the ordinance
34 or the streets not affected, as the local authority determines will
35 best serve to give notice of the ordinance.

36 (c) No ordinance adopted pursuant to this section after
37 November 10, 1969, shall apply to any state highway which is
38 included in the National System of Interstate and Defense
39 Highways, except an ordinance which has been approved by a
40 two-thirds vote of the California Transportation Commission.

1 (d) The solid waste management plan prepared under Section
2 66780.1 of the Government Code by San Diego County may
3 designate the traditionally used routes.

4 (e) “Traditionally used route,” for purposes of this section,
5 means any street used for a period of one year or more as access
6 to or from a solid waste disposal site.

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