

AMENDED IN ASSEMBLY JUNE 9, 2008  
AMENDED IN ASSEMBLY JUNE 25, 2007  
AMENDED IN SENATE MAY 2, 2007  
AMENDED IN SENATE APRIL 18, 2007  
AMENDED IN SENATE APRIL 10, 2007  
AMENDED IN SENATE MARCH 22, 2007

**SENATE BILL**

**No. 303**

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**Introduced by Senator Ducheny**

February 16, 2007

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~~An act to amend Sections 65301, 65563, 65564, 65582, 65583, 65583.2, 65584.09, 65585, 65587, and 65860 of, to add Sections 65300.1, 65583.3, 65588.2, and 65588.3 to, and to repeal and add Section 65588 of, the Government Code, relating to land use planning, and making an appropriation therefor. An act to amend Sections 65080, 65080.3, 65583, 65584, 65584.01, and 65584.05 of, and to add Sections 65080.4 and 65080.6 to, the Government Code, relating to land use planning.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as amended, Ducheny. Local government: land use planning.

*(1) Existing law requires designated transportation planning agencies to prepare and adopt a regional transportation plan that includes a policy element, an action element, and a financial element. The plan is required to be directed at achieving a coordinated and balanced regional transportation plan. Each transportation agency with a*

population that exceeds 200,000 persons is authorized to prepare at least one alternative planning scenario, as specified.

This bill would require the regional transportation plan to include an initial planning scenario, as specified. A transportation planning agency with a population exceeding 200,000 persons, would be required (A) to adopt and publish procedures governing the preparation and adoption of the regional transportation plan, as specified, (B) to prepare an alternative planning scenario, as specified, and (C) to submit, at least 90 days prior to circulation of the draft regional transportation plan, the initial planning scenario and the alternative planning scenario and accompanying report to the State Air Resources Board, as specified. These additional duties would impose a state-mandated local program. The State Air Resources Board would be required to hold a public hearing and issue a written report determining whether either the initial planning scenario or the alternative planning scenario will inhibit the state from achieving its goals under the California Global Warming Solutions Act of 2006. A city or county would be authorized to create one or more transportation infill areas, as specified.

(2) Existing law requires a city or county general plan to include specified mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is required to calculate the existing and projected regional housing need, as specified. The council of governments, or delegate subregion, as applicable, is required to distribute the proposed final allocation of regional planning needs to each local government in the region or subregion, as applicable, based on specified methodology. It is the intent of the Legislature that the proposed final allocation be distributed prior to the completion of the update of the applicable regional transportation plan.

This bill would revise the time period for the statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing. The timeframe for calculating and distributing the fourth and subsequent revisions of the housing element would be revised, as specified. The proposed final allocation would be required to be distributed prior to

*the completion of the update of the applicable regional transportation plan.*

*(3) 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.*

~~(1) The Planning and Zoning Law requires a city, county, or city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of elements, including, among other things, a housing and an open-space element. Existing law provides that the general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.~~

~~This bill would require the general plan, and each of its elements to encompass a planning and projection period of at least 20 years, except for the housing element, and would require each element, except for the housing, conservation, and open-space elements, to be updated at least every 10 years. The bill would require the housing element to be updated as specified, and would require the conservation element and the open-space element to be updated concurrently with the housing element.~~

~~The bill would revise the open-space element and require local governments to consider the guidelines adopted by the Office of Planning and Research. The bill would also define “regional housing need” and “existing and projected housing need” to mean the minimum amount of housing needed over the next 10-year period.~~

~~(2) The Planning and Zoning Law requires the housing element of a general plan to identify and analyze various elements, and include a statement of the community’s goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.~~

~~This bill would require the statement be relative to the maintenance, preservation, improvement, and development of housing for extremely low, very low, low- and moderate-income households, and for any special housing needs, as specified.~~

~~(3) Existing law requires the housing element to include, among other things, a program that sets forth a 5-year schedule for actions the local government is undertaking, or intends to undertake to implement~~

the policies and achieve the goals and objectives of the housing element, as specified. The program adopted must, among other requirements, identify actions that will be taken to make sites available during the planning period of the general plan, as specified.

This bill would, instead, require the program to identify sites to facilitate and encourage the development of a variety of types of housing for all income levels, as specified.

~~(4) Existing law requires the housing element of a general plan to include an inventory of sites that can be developed for housing within the planning period to accommodate that portion of a city's or county's share of the regional housing need for all income levels, as specified, and requires the city or county to provide an analysis demonstrating how the adopted densities accommodate its share of the regional housing need for lower income households or meet specified densities to accommodate housing for lower income households.~~

~~This bill would delete the option to provide an analysis demonstrating how the adopted densities accommodate the city's or county's share of the regional housing need for lower income households and would, instead, require cities and counties to permit specified densities to accommodate housing for lower income households.~~

~~(5) Existing law requires the housing element of a general plan to include an inventory of sites that can be developed for housing within the planning period to accommodate that portion of a city's or county's share of the regional housing need for all income levels, as specified.~~

~~This bill would require the city council or county board of supervisors to designate in its land use element sufficient land for residential use to accommodate the jurisdiction's 10-year housing need. By imposing additional duties upon local officials, this bill would create a state-mandated local program.~~

~~(6) Existing law requires each local government to review its housing elements as frequently as appropriate to evaluate a number of factors, as specified:~~

~~This bill would revise the factors that each local government is required to evaluate in its review of the housing element and would require the housing element to be updated every 5 years. The bill would also specify the dates that specific groups of local governments are required to update the housing elements, notwithstanding the 5-year requirement.~~

~~The bill would also provide that the deadlines specified for the amendment of the housing element are mandatory and these~~

modifications are not intended to affect existing law with respect to the planning, use, or development of areas outside the sites designated and zoned for residential use to accommodate the jurisdiction's 10-year housing need.

~~(7) Existing law requires county and city ordinances to be consistent with the general plan. For a zoning ordinance to be considered consistent with a general plan officially adopted by a county or city, the various land uses authorized by the ordinance must be compatible with the objectives, policies, general land uses and programs specified in the general plan. Existing law also authorizes a resident or property owner within a city or county to bring an action or proceeding to enforce compliance with these provisions within 90 days of the enactment of any new zoning ordinance or the amendment of an existing ordinance. Existing law also applies these provisions to specified charter cities.~~

~~This bill would require the county or city zoning ordinances to be consistent with the general plan of the county or city by the date of the next housing element update, and thereafter. The bill would revise the factors required for a zoning ordinance to be considered consistent with a general plan to include a requirement for residential uses that the zoning ordinance allows development at the density range specified in the general plan.~~

~~The bill would authorize a property owner to bring an action in court to order a city, county, or city and county to perform a specified action of the housing element within 60 days, as specified.~~

~~The bill would also declare that these provisions have statewide implications and would apply these provisions to a charter city, charter county, and charter city and county, as well as general law cities and counties.~~

~~(8) The bill would also continuously appropriate the sum of \$45,000,000 provided by the Housing and Emergency Shelter Trust Fund Act of 2006 for the purpose of establishing a revolving loan fund in the General Fund to assist cities and counties in funding the enhanced planning and environmental obligations established by this act. The bill would also require that the revolving loan fund be administered by the Office of Planning and Research through a specified repayment program.~~

~~(9) 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: ~~yes~~-no. Fiscal committee: yes.  
 State-mandated local program: yes.

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

1     *SECTION 1. Section 65080 of the Government Code is*  
 2     *amended to read:*

3     65080. (a) Each transportation planning agency designated  
 4     under Section 29532 or 29532.1 shall prepare and adopt a regional  
 5     transportation plan directed at achieving a coordinated and balanced  
 6     regional transportation system, including, but not limited to, mass  
 7     transportation, highway, railroad, maritime, bicycle, pedestrian,  
 8     goods movement, and aviation facilities and services. The plan  
 9     shall be action-oriented and pragmatic, considering both the  
 10    short-term and long-term future, and shall present clear, concise  
 11    policy guidance to local and state officials. The regional  
 12    transportation plan shall consider factors specified in Section 134  
 13    of Title 23 of the United States Code. Each transportation planning  
 14    agency shall consider and incorporate, as appropriate, the  
 15    transportation plans of cities, counties, districts, private  
 16    organizations, and state and federal agencies.

17    (b) The regional transportation plan shall include all of the  
 18    following:

19    (1) (A) *An initial planning scenario. For areas that have a*  
 20    *county transportation commission created pursuant to Section*  
 21    *130050 of the Public Utilities Code, the county transportation*  
 22    *commission for each county shall prepare the initial planning*  
 23    *scenario for its area or otherwise contract with the multicounty*  
 24    *designated transportation planning agency, as defined in Section*  
 25    *130004 of the Public Resources Code, to prepare the initial*  
 26    *planning scenario for its area. The initial planning scenario shall*  
 27    *do all of the following:*

28    (i) *Project a land use and development pattern that includes*  
 29    *land use designations, densities, and building intensities for the*  
 30    *area covered by the regional transportation plan based on existing*  
 31    *general plan policies and recent and current growth patterns.*

32    (ii) *Provide for sufficient housing within the region to*  
 33    *accommodate the region's medium- and long-term housing need*  
 34    *for all income levels during the planning period.*

1 (iii) Establish a regional greenhouse gas emissions target by  
2 projecting the Land Use-Transportation Carbon Footprint  
3 associated with implementation of the regional transportation  
4 plan.

5 (B) The initial planning scenario may designate the approximate  
6 boundaries of potential Transportation Infill Areas (TIAs) within  
7 the region, pursuant to Section 65080.5, that could be developed  
8 at significantly higher densities to increase the efficiency of the  
9 transportation network.

10 (H)

11 (2) A policy element that describes the transportation issues in  
12 the region, identifies and quantifies regional needs, and describes  
13 the desired short-range and long-range transportation goals, and  
14 pragmatic objective and policy statements. The objective and policy  
15 statements shall be consistent with the funding estimates of the  
16 financial element. The policy element of transportation planning  
17 agencies with populations that exceed 200,000 persons may  
18 quantify a set of indicators including, but not limited to, all of the  
19 following:

20 (A) Measures of mobility and traffic congestion, including, but  
21 not limited to, vehicle hours of delay per capita and vehicle miles  
22 traveled per capita.

23 (B) Measures of road and bridge maintenance and rehabilitation  
24 needs, including, but not limited to, roadway pavement and bridge  
25 conditions.

26 (C) Measures of means of travel, including, but not limited to,  
27 percentage share of all trips (work and nonwork) made by all of  
28 the following:

29 (i) Single occupant vehicle.

30 (ii) Multiple occupant vehicle or carpool.

31 (iii) Public transit including commuter rail and intercity rail.

32 (iv) Walking.

33 (v) Bicycling.

34 (D) Measures of safety and security, including, but not limited  
35 to, total injuries and fatalities assigned to each of the modes set  
36 forth in subparagraph (C).

37 (E) Measures of equity and accessibility, including, but not  
38 limited to, percentage of the population served by frequent and  
39 reliable public transit, with a breakdown by income bracket, and

1 percentage of all jobs accessible by frequent and reliable public  
2 transit service, with a breakdown by income bracket.

3 (F) The requirements of this section may be met utilizing  
4 existing sources of information. No additional traffic counts,  
5 household surveys, or other sources of data shall be required.

6 ~~(2)~~

7 (3) An action element that describes the programs and actions  
8 necessary to implement the plan and assigns implementation  
9 responsibilities. The action element may describe all projects  
10 proposed for development during the 20-year life of the plan.

11 The action element shall consider congestion management  
12 programming activities carried out within the region.

13 ~~(3)~~

14 (4) (A) A financial element that summarizes the cost of plan  
15 implementation constrained by a realistic projection of available  
16 revenues. The financial element shall also contain  
17 recommendations for allocation of funds. A county transportation  
18 commission created pursuant to Section 130000 of the Public  
19 Utilities Code shall be responsible for recommending projects to  
20 be funded with regional improvement funds, if the project is  
21 consistent with the regional transportation plan. The first five years  
22 of the financial element shall be based on the five-year estimate  
23 of funds developed pursuant to Section 14524. The financial  
24 element may recommend the development of specified new sources  
25 of revenue, consistent with the policy element and action element.

26 (B) The financial element of transportation planning agencies  
27 with populations that exceed 200,000 persons may include a project  
28 cost breakdown for all projects proposed for development during  
29 the 20-year life of the plan that includes total expenditures and  
30 related percentages of total expenditures for all of the following:

- 31 (i) State highway expansion.
- 32 (ii) State highway rehabilitation, maintenance, and operations.
- 33 (iii) Local road and street expansion.
- 34 (iv) Local road and street rehabilitation, maintenance, and  
35 operation.
- 36 (v) Mass transit, commuter rail, and intercity rail expansion.
- 37 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,  
38 maintenance, and operations.
- 39 (vii) Pedestrian and bicycle facilities.
- 40 (viii) Environmental enhancements and mitigation.

1 (ix) Research and planning.

2 (x) Other categories.

3 (c) Each transportation planning agency may also include other  
4 factors of local significance as an element of the regional  
5 transportation plan, including, but not limited to, issues of mobility  
6 for specific sectors of the community, including, but not limited  
7 to, senior citizens.

8 (d) Except as otherwise provided in this subdivision, each  
9 transportation planning agency shall adopt and submit, every four  
10 years, an updated regional transportation plan to the California  
11 Transportation Commission and the Department of Transportation.  
12 A transportation planning agency located in a federally designated  
13 air quality attainment area or that does not contain an urbanized  
14 area may at its option adopt and submit a regional transportation  
15 plan every five years. When applicable, the plan shall be consistent  
16 with federal planning and programming requirements and shall  
17 conform to the regional transportation plan guidelines adopted by  
18 the California Transportation Commission. Prior to adoption of  
19 the regional transportation plan, a public hearing shall be held after  
20 the giving of notice of the hearing by publication in the affected  
21 county or counties pursuant to Section 6061. *In a transportation*  
22 *planning agency with a population exceeding 200,000 persons,*  
23 *the transportation planning agency, after notice and the*  
24 *opportunity for the public to provide written and oral comments,*  
25 *shall adopt and publish procedures governing the preparation and*  
26 *adoption of the regional transportation plan. The procedures shall*  
27 *include, at a minimum, all of the following:*

28 (1) *Outreach efforts to ensure the active participation of a broad*  
29 *range of stakeholder groups in the planning process, including,*  
30 *but not limited to, affordable housing advocates, transportation*  
31 *advocates, neighborhood and community groups, environmental*  
32 *advocates, homebuilder representatives, broad-based business*  
33 *organizations, landowners, commercial property interests, and*  
34 *homeowners associations.*

35 (2) *Workshops throughout the region to provide the public with*  
36 *the information and tools necessary to provide a clear*  
37 *understanding of the issues and policy choices, including*  
38 *prioritizing transportation funding in a manner that limits*  
39 *opportunities for single-family home development and ownership*  
40 *and individual automobile use in an attempt to address global*

1 climate change through altering the region's transportation and  
 2 land use policy. At least three workshops shall be held in each  
 3 county within the region. Each workshop shall include urban  
 4 simulation computer modeling to create visual representations of  
 5 the initial planning scenario and the alternative planning scenario  
 6 prepared pursuant to Section 65080.3.

7 (3) Preparation and circulation of a draft regional  
 8 transportation plan not less than 90 days before adoption of a  
 9 final plan.

10 (4) At least three public hearings on the draft regional  
 11 transportation plan. To the maximum extent feasible, the hearings  
 12 shall be in different parts of the region to maximize the opportunity  
 13 for participation by members of the public throughout the region.

14 (5) A process for enabling members of the public to provide a  
 15 single request to receive notices, information, and updates.

16 (e) For purposes of this chapter the following terms have the  
 17 following meanings:

18 (1) "Land use-transportation carbon footprint" means the  
 19 region's per capita or per household carbon emissions calculated  
 20 using a methodology that measures the carbon equivalent of  
 21 greenhouse gas emissions from personal and freight transportation  
 22 and residential energy use and direct fuel consumption.

23 (2) "Medium-term housing need" means the region's existing  
 24 and projected housing need determined pursuant to paragraph  
 25 (1) of subdivision (a) of Section 65584.

26 (3) The provisions in Section 65583.2 shall be used to determine  
 27 site capacity and accommodation of lower income households.

28 SEC. 2. Section 65080.3 of the Government Code is amended  
 29 to read:

30 65080.3. (a) Each transportation planning agency with a  
 31 population that exceeds 200,000 persons ~~may~~ shall prepare at least  
 32 ~~one~~ an "alternative planning scenario" that results in a projected  
 33 land use transportation carbon footprint, as defined in Section  
 34 65080, that is less than that associated with the initial planning  
 35 scenario for presentation to local officials, agency board members,  
 36 and the public during the development of the ~~triennial~~ regional  
 37 transportation plan and the ~~hearing~~ workshops and hearings  
 38 required under subdivision ~~(e)~~ (d) of Section 65080. For areas  
 39 that have a county transportation commission created pursuant  
 40 to Section 130050 of the Public Utilities Code, the county

1 *transportation commission for each county shall prepare the*  
2 *alternative planning scenario for its area or otherwise contract*  
3 *with the multicounty designated transportation planning agency,*  
4 *as defined in Section 130004 of the Public Utilities Code, to*  
5 *prepare the alternative planning scenario for its area.*

6 (b) ~~The alternative planning scenario shall accommodate the~~  
7 ~~same amount of population growth as projected in the plan but~~  
8 ~~shall be based on an alternative that attempts to reduce the growth~~  
9 ~~in traffic congestion, make more efficient use of existing~~  
10 ~~transportation infrastructure, and reduce the need for costly future~~  
11 ~~public infrastructure. do all of the following:~~

12 (1) *Project a land use and development pattern that includes*  
13 *land use designations, densities, and building intensities for the*  
14 *area covered by the regional transportation plan, after considering*  
15 *a range of growth patterns with different emphases, including*  
16 *accommodating growth in master planned communities,*  
17 *accommodating growth in exurban areas outside existing urban*  
18 *centers, accommodating growth in suburban areas near urban*  
19 *areas, and growth in urban areas.*

20 (2) *Provide for sufficient housing within the region to*  
21 *accommodate the region's medium- and long-term housing need*  
22 *for all income levels during the planning period.*

23 (3) *Rely on, and accommodate, the same planning projections*  
24 *and assumptions as the initial planning scenario, including*  
25 *projected population and job growth.*

26 (c) The alternative planning scenario shall be developed in  
27 collaboration with a broad range of public and private stakeholders,  
28 including local elected officials, city and county employees,  
29 relevant interest groups, and the general public. In developing the  
30 scenario, the agency shall consider all of the following:

31 (1) Increasing housing and commercial development around  
32 transit facilities and in close proximity to jobs and commercial  
33 activity centers.

34 (2) Encouraging public transit usage, ridesharing, walking,  
35 bicycling, and transportation demand management practices.

36 (3) Promoting a more efficient mix of current and future job  
37 sites, commercial activity centers, and housing opportunities.

38 (4) Promoting use of urban vacant land and “brownfield”  
39 redevelopment.

1 (5) An economic incentive program that may include measures  
2 such as transit vouchers and variable pricing for transportation.

3 (6) *The general plans of the cities and counties within the region,*  
4 *spheres of influence for each city, and the most recent municipal*  
5 *service reviews completed by the local agency formation*  
6 *commissions within the planning area.*

7 (7) *The alternative planning scenario may designate the*  
8 *approximate boundaries of potential transportation infill areas*  
9 *(TIAs) within the region, pursuant to Section 65080.5, that could*  
10 *be developed at significantly higher densities to increase the*  
11 *efficiency of the transportation network.*

12 (e) The alternative planning scenario shall be included in a  
13 report evaluating all of the following:

14 (1) The amounts and locations of traffic congestion.

15 (2) Vehicle miles traveled and the resulting reduction in vehicle  
16 emissions.

17 (3) Estimated percentage share of trips made by each means of  
18 travel specified in subparagraph (C) of paragraph—(1) (2) of  
19 subdivision (b) of Section 65080.

20 (4) The costs of transportation improvements required to  
21 accommodate the population growth in accordance with the  
22 alternative *planning scenario and sources of funds for the required*  
23 *improvements.*

24 (5) The economic, social, environmental, regulatory, and  
25 institutional barriers to the scenario being achieved.

26 (6) *The capacity, or lack thereof, of existing infrastructure for*  
27 *water supply, wastewater transport and treatment, solid waste*  
28 *disposal, and other utilities to accommodate any increased*  
29 *densities envisioned under the alternative planning scenario, and*  
30 *increases, upgrades, or retrofit actions necessary to establish*  
31 *sufficient capacity for the envisioned uses.*

32 (7) *Quantification of the reduction in the land use-transportation*  
33 *carbon footprint forecasted to be achieved by the alternative*  
34 *planning scenario as compared to the initial planning scenario.*

35 ~~(e) If the adopted regional transportation plan already achieves~~  
36 ~~one or more of the objectives set forth in subdivision (c), those~~  
37 ~~objectives need not be discussed or evaluated in the alternative~~  
38 ~~planning scenario.~~

39 (e) (1) *At least 90 days prior to circulation of the draft regional*  
40 *transportation plan, the transportation agency shall submit the*

1 *initial planning scenario and the alternative planning scenario*  
2 *and accompanying report to the State Air Resources Board. The*  
3 *board shall hold a public hearing and issue a written report*  
4 *determining whether each scenario will inhibit the state from*  
5 *achieving its goals under the California Global Warming Solutions*  
6 *Act of 2006 (Part 1 (commencing with Section 38500) of Division*  
7 *25.5 of the Health and Safety Code). The board's determination*  
8 *shall be supported by substantial evidence in the record. The board*  
9 *is not authorized to make land use determinations, zoning*  
10 *determinations, determine building intensities, or other*  
11 *determinations that are the prerogative of local governments. The*  
12 *board shall transmit its written report to the transportation agency*  
13 *within 60 days of receiving the scenarios from the transportation*  
14 *agency.*

15 *(2) If the State Air Resources Board's report determines that*  
16 *neither the initial planning scenario nor the alternative planning*  
17 *scenario will inhibit the state from achieving its goals under the*  
18 *California Global Warming Solutions Act of 2006 (Part 1*  
19 *(commencing with Section 38500) of Division 25.5 of the Health*  
20 *and Safety Code), the transportation agency may adopt either one*  
21 *as the planning scenario for the regional transportation plan.*

22 *(3) ~~The~~ If the State Air Resources Board's report determines*  
23 *that (i) the initial planning scenario will inhibit the state from*  
24 *achieving its goals under the California Global Warming Solutions*  
25 *Act of 2006 (Part 1 (commencing with Section 38500) of Division*  
26 *25.5 of the Health and Safety Code), and (ii) that the alternative*  
27 *planning scenario will not inhibit the state from achieving its goals*  
28 *under that act, the alternative planning scenario and accompanying*  
29 *report shall not be adopted as part of the planning scenario for the*  
30 *regional transportation plan, but it shall be distributed to cities and*  
31 *counties within the region and to other interested parties, and may*  
32 *be a basis for revisions to the transportation projects that will be*  
33 *included in the regional transportation plan.*

34 *(4) If the State Air Resources Board's report determines that*  
35 *both scenarios will inhibit the state from achieving its goals under*  
36 *the California Global Warming Solutions Act of 2006 (Part 1*  
37 *(commencing with Section 38500) of Division 25.5 of the Health*  
38 *and Safety Code), the report shall include proposed modifications*  
39 *to the alternative planning scenario that would result in the*  
40 *alternative planning scenario not inhibiting the state's goals under*

1 *that act. The board shall not make land use determinations, zoning*  
2 *determinations, or building intensity determinations. The*  
3 *transportation agency shall adopt the alternative planning scenario*  
4 *with the modifications as the planning scenario for the regional*  
5 *transportation plan unless it determines, based on substantial*  
6 *evidence in the record, that (i) the proposed modifications would*  
7 *prevent the region from meeting its medium- or long-term housing*  
8 *need, or (ii) the proposed modifications render the alternative*  
9 *planning scenario inconsistent with any applicable federal*  
10 *requirements for land use and development scenarios. If the*  
11 *transportation agency makes either of these determinations, it*  
12 *shall adopt the alternative planning scenario without the*  
13 *modifications as the planning scenario for the regional*  
14 *transportation plan.*

15 ~~(g)~~

16 (f) Nothing in this section grants transportation planning  
17 agencies any direct or indirect authority over local land use  
18 decisions.

19 ~~(h) This section does not apply to a transportation plan adopted~~  
20 ~~on or before September 1, 2001, proposed by a transportation~~  
21 ~~planning agency with a population of less than 1,000,000 persons.~~

22 (g) *The provisions of this chapter shall be the exclusive*  
23 *compliance mechanism for the land use sector sources in each*  
24 *region for purposes of the California Global Warming Solutions*  
25 *Act of 2006 (Part 1 (commencing with Section 38500) of Division*  
26 *25.5 of the Health and Safety Code), and no additional*  
27 *requirements shall be required pursuant to that act regulating the*  
28 *location, distribution, or type of land uses, or the generation of*  
29 *vehicle miles traveled by motor vehicles associated with such land*  
30 *uses. Nothing in this subdivision shall prohibit the issuance of*  
31 *energy efficiency requirements for existing or new development*  
32 *related to energy use within the development nor shall it affect the*  
33 *ability of any agency to regulate the greenhouse gas or air*  
34 *contaminant emissions rate of any vehicles or transportation*  
35 *facilities.*

36 (h) *Nothing in this chapter shall be interpreted to authorize the*  
37 *abrogation of any vested right whether created statutorily or by*  
38 *common law.*

39 (i) *The provisions of this section shall not apply to all of the*  
40 *following:*

1 (1) Any project programmed for funding on or before December  
2 31, 2011, that is (A) contained in the 2007 or 2009 Federal  
3 Statewide Transportation Improvement Program, or (B) funded  
4 pursuant to Chapter 12.49 (commencing with Section 8879.20) of  
5 Division 1 of Title 2.

6 (2) Any project identified in a ballot measure imposing a sales  
7 tax for transportation projects that is approved by the voters on  
8 or before November 4, 2008.

9 (j) Where a ballot measure imposing a sales tax for  
10 transportation projects approved on or before November 4, 2008,  
11 includes or references a transportation expenditure plan that  
12 allocates funds based on the programmatic nature of the  
13 expenditure (categorical expenditures), nothing in this bill shall  
14 be interpreted to require or authorize the reallocation of funds to  
15 a different category, or any other action that would require voter  
16 approval. The governing agency, however, shall establish criteria  
17 that gives priority for funds within a category to projects that are  
18 consistent with the adopted planning scenario for the regional  
19 transportation plan.

20 (k) Nothing in this section shall be interpreted, either by its own  
21 terms or in combination with any other provision of law, as  
22 requiring a city's or county's land use policies and regulations,  
23 including its general plan, to be consistent with the regional  
24 transportation plan or the planning scenario adopted as part of  
25 the regional transportation plan.

26 (l) Nothing in this section shall apply to any project for which  
27 an application has been deemed complete by any jurisdictional  
28 local lead agency or for which a notice of preparation has been  
29 issued pursuant to subdivision (a) of Section 21080.4 of the Public  
30 Resources Code and subdivision (a) of Section 15082 of Title 24  
31 of the California Code of Regulations, prior to the adoption of the  
32 first regional transportation plan prepared in compliance with  
33 this section, by the transportation agency for the region in which  
34 the project is located.

35 SEC. 3. Section 65080.4 is added to the Government Code, to  
36 read:

37 65080.4. If a project is consistent with the designation, density,  
38 and building intensity specified for the area in the planning  
39 scenario for the regional transportation plan, any environmental  
40 review for the project, including, without limitation, findings or

1 *other determinations for an exemption, a negative declaration, a*  
2 *mitigated negative declaration, an environmental impact report,*  
3 *findings, a mitigation monitoring and reporting program, or other*  
4 *document under Division 13 (commencing with Section 21000) of*  
5 *the Public Resources Code, shall not be required to reference,*  
6 *describe, or discuss potential project specific or cumulative growth*  
7 *inducing effects, alternatives, or effects related to greenhouse gas*  
8 *emissions or climate change. In addition, the geographic scope*  
9 *for referencing, describing, or discussing any potentially*  
10 *cumulative effects not prohibited by this section from being*  
11 *referenced, described, or discussed shall not extend beyond the*  
12 *territorial limits of the city or county in which the project is*  
13 *located.*

14 *SEC. 4. Section 65080.6 is added to the Government Code, to*  
15 *read:*

16 *65080.6. (a) A city or county may create one or more*  
17 *transportation infill areas (TIA) in areas designated as potential*  
18 *transportation infill areas in the regional transportation plan.*

19 *(b) A TIA shall include all of the following:*

20 *(1) A reasonable description of the specific boundaries of the*  
21 *TIA within the jurisdiction.*

22 *(2) Zoning that plans for the construction of at least 500 new*  
23 *dwelling units in addition to commercial, retail, office, or other*  
24 *uses that are compatible with residential development located*  
25 *within a transit corridor.*

26 *(3) Minimum zoning and density standards that establish*  
27 *average residential densities of at least 30 units per acre in*  
28 *residential areas and an average floor area ratio of 2.0 in*  
29 *commercial areas.*

30 *(c) The following provisions shall apply within TIAs:*

31 *(1) The provisions of Section 65915 do not apply.*

32 *(2) If a project is consistent with the designation, density, and*  
33 *building intensity specified for the area in the planning scenario*  
34 *for the regional transportation plan, any environmental review*  
35 *for the project, including, without limitation, findings or other*  
36 *determinations for an exemption, a negative declaration, a*  
37 *mitigated negative declaration, an environmental impact report,*  
38 *findings, a mitigation monitoring and reporting program, or other*  
39 *document under Division 13 (commencing with Section 21000) of*  
40 *the Public Resources Code, shall not be required to reference,*

1 *describe, or discuss potential project specific or cumulative growth*  
2 *inducing effects, alternatives, or effects related to greenhouse gas*  
3 *emissions or climate change. In addition, the geographic scope*  
4 *for referencing, describing, or discussing any potentially*  
5 *cumulative effects not prohibited by this section from being*  
6 *referenced, described, or discussed shall not extend beyond the*  
7 *territorial limits of the city or county in which the project is*  
8 *located.*

9 *SEC. 5. Section 65583 of the Government Code is amended to*  
10 *read:*

11 65583. The housing element shall consist of an identification  
12 and analysis of existing and projected housing needs and a  
13 statement of goals, policies, quantified objectives, financial  
14 resources, and scheduled programs for the preservation,  
15 improvement, and development of housing. The housing element  
16 shall identify adequate sites for housing, including rental housing,  
17 factory-built housing, mobilehomes, and emergency shelters, and  
18 shall make adequate provision for the existing and projected needs  
19 of all economic segments of the community. The element shall  
20 contain all of the following:

21 (a) An assessment of housing needs and an inventory of  
22 resources and constraints relevant to the meeting of these needs.

23 The assessment and inventory shall include all of the following:

24 (1) An analysis of population and employment trends and  
25 documentation of projections and a quantification of the locality's  
26 existing and projected housing needs for all income levels,  
27 including extremely low income households, as defined in  
28 subdivision (b) of Section 50105 and Section 50106 of the Health  
29 and Safety Code. These existing and projected needs shall include  
30 the locality's share of the regional housing need in accordance  
31 with Section 65584. Local agencies shall calculate the subset of  
32 very low income households allotted under Section 65584 that  
33 qualify as extremely low income households. The local agency  
34 may either use available census data to calculate the percentage  
35 of very low income households that qualify as extremely low  
36 income households or presume that 50 percent of the very low  
37 income households qualify as extremely low income households.  
38 The number of extremely low income households and very low  
39 income households shall equal the jurisdiction's allocation of very  
40 low income households pursuant to Section 65584.

1 (2) An analysis and documentation of household characteristics,  
2 including level of payment compared to ability to pay, housing  
3 characteristics, including overcrowding, and housing stock  
4 condition.

5 (3) An inventory of land suitable for residential development,  
6 including vacant sites and sites having potential for redevelopment,  
7 and an analysis of the relationship of zoning and public facilities  
8 and services to these sites.

9 (4) (A) The identification of a zone or zones where emergency  
10 shelters are allowed as a permitted use without a conditional use  
11 or other discretionary permit. The identified zone or zones shall  
12 include sufficient capacity to accommodate the need for emergency  
13 shelter identified in paragraph (7), except that each local  
14 government shall identify a zone or zones that can accommodate  
15 at least one year-round emergency shelter. If the local government  
16 cannot identify a zone or zones with sufficient capacity, the local  
17 government shall include a program to amend its zoning ordinance  
18 to meet the requirements of this paragraph within one year of the  
19 adoption of the housing element. The local government may  
20 identify additional zones where emergency shelters are permitted  
21 with a conditional use permit. The local government shall also  
22 demonstrate that existing or proposed permit processing,  
23 development, and management standards are objective and  
24 encourage and facilitate the development of, or conversion to,  
25 emergency shelters. Emergency shelters may only be subject to  
26 those development and management standards that apply to  
27 residential or commercial development within the same zone except  
28 that a local government may apply written, objective standards  
29 that include all of the following:

30 (i) The maximum number of beds or persons permitted to be  
31 served nightly by the facility.

32 (ii) Off-street parking based upon demonstrated need, provided  
33 that the standards do not require more parking for emergency  
34 shelters than for other residential or commercial uses within the  
35 same zone.

36 (iii) The size and location of exterior and interior onsite waiting  
37 and client intake areas.

38 (iv) The provision of onsite management.

39 (v) The proximity to other emergency shelters, provided that  
40 emergency shelters are not required to be more than 300 feet apart.

- 1 (vi) The length of stay.
- 2 (vii) Lighting.
- 3 (viii) Security during hours that the emergency shelter is in
- 4 operation.

5 (B) The permit processing, development, and management  
6 standards applied under this paragraph shall not be deemed to be  
7 discretionary acts within the meaning of the California  
8 Environmental Quality Act (Division 13 (commencing with Section  
9 21000) of the Public Resources Code).

10 (C) A local government that can demonstrate to the satisfaction  
11 of the department the existence of one or more emergency shelters  
12 either within its jurisdiction or pursuant to a multijurisdictional  
13 agreement that can accommodate that jurisdiction's need for  
14 emergency shelter identified in paragraph (7) may comply with  
15 the zoning requirements of subparagraph (A) by identifying a zone  
16 or zones where new emergency shelters are allowed with a  
17 conditional use permit.

18 (D) A local government with an existing ordinance or ordinances  
19 that comply with this paragraph shall not be required to take  
20 additional action to identify zones for emergency shelters. The  
21 housing element must only describe how existing ordinances,  
22 policies, and standards are consistent with the requirements of this  
23 paragraph.

24 (5) An analysis of potential and actual governmental constraints  
25 upon the maintenance, improvement, or development of housing  
26 for all income levels, including the types of housing identified in  
27 paragraph (1) of subdivision (c), and for persons with disabilities  
28 as identified in the analysis pursuant to paragraph (6), including  
29 land use controls, building codes and their enforcement, site  
30 improvements, fees and other exactions required of developers,  
31 and local processing and permit procedures. The analysis shall  
32 also demonstrate local efforts to remove governmental constraints  
33 that hinder the locality from meeting its share of the regional  
34 housing need in accordance with Section 65584 and from meeting  
35 the need for housing for persons with disabilities, supportive  
36 housing, transitional housing, and emergency shelters identified  
37 pursuant to paragraph (6). Transitional housing and supportive  
38 housing shall be considered a residential use of property, and shall  
39 be subject only to those restrictions that apply to other residential  
40 dwellings of the same type in the same zone.

1 (6) An analysis of potential and actual nongovernmental  
2 constraints upon the maintenance, improvement, or development  
3 of housing for all income levels, including the availability of  
4 financing, the price of land, and the cost of construction.

5 (7) An analysis of any special housing needs, such as those of  
6 the elderly, persons with disabilities, large families, farmworkers,  
7 families with female heads of households, and families and persons  
8 in need of emergency shelter. The need for emergency shelter shall  
9 be assessed based on annual and seasonal need. The need for  
10 emergency shelter may be reduced by the number of supportive  
11 housing units that are identified in an adopted 10-year plan to end  
12 chronic homelessness and that are either vacant or for which  
13 funding has been identified to allow construction during the  
14 planning period.

15 (8) An analysis of opportunities for energy conservation with  
16 respect to residential development.

17 (9) An analysis of existing assisted housing developments that  
18 are eligible to change from low-income housing uses during the  
19 next 10 years due to termination of subsidy contracts, mortgage  
20 prepayment, or expiration of restrictions on use. “Assisted housing  
21 developments,” for the purpose of this section, shall mean  
22 multifamily rental housing that receives governmental assistance  
23 under federal programs listed in subdivision (a) of Section  
24 65863.10, state and local multifamily revenue bond programs,  
25 local redevelopment programs, the federal Community  
26 Development Block Grant Program, or local in-lieu fees. “Assisted  
27 housing developments” shall also include multifamily rental units  
28 that were developed pursuant to a local inclusionary housing  
29 program or used to qualify for a density bonus pursuant to Section  
30 65916.

31 (A) The analysis shall include a listing of each development by  
32 project name and address, the type of governmental assistance  
33 received, the earliest possible date of change from low-income use  
34 and the total number of elderly and nonelderly units that could be  
35 lost from the locality’s low-income housing stock in each year  
36 during the 10-year period. For purposes of state and federally  
37 funded projects, the analysis required by this subparagraph need  
38 only contain information available on a statewide basis.

39 (B) The analysis shall estimate the total cost of producing new  
40 rental housing that is comparable in size and rent levels, to replace

1 the units that could change from low-income use, and an estimated  
2 cost of preserving the assisted housing developments. This cost  
3 analysis for replacement housing may be done aggregately for  
4 each five-year period and does not have to contain a  
5 project-by-project cost estimate.

6 (C) The analysis shall identify public and private nonprofit  
7 corporations known to the local government which have legal and  
8 managerial capacity to acquire and manage these housing  
9 developments.

10 (D) The analysis shall identify and consider the use of all federal,  
11 state, and local financing and subsidy programs which can be used  
12 to preserve, for lower income households, the assisted housing  
13 developments, identified in this paragraph, including, but not  
14 limited to, federal Community Development Block Grant Program  
15 funds, tax increment funds received by a redevelopment agency  
16 of the community, and administrative fees received by a housing  
17 authority operating within the community. In considering the use  
18 of these financing and subsidy programs, the analysis shall identify  
19 the amounts of funds under each available program which have  
20 not been legally obligated for other purposes and which could be  
21 available for use in preserving assisted housing developments.

22 (b) (1) A statement of the community's goals, quantified  
23 objectives, and policies relative to the maintenance, preservation,  
24 improvement, and development of housing.

25 (2) It is recognized that the total housing needs identified  
26 pursuant to subdivision (a) may exceed available resources and  
27 the community's ability to satisfy this need within the content of  
28 the general plan requirements outlined in Article 5 (commencing  
29 with Section 65300). Under these circumstances, the quantified  
30 objectives need not be identical to the total housing needs. The  
31 quantified objectives shall establish the maximum number of  
32 housing units by income category, including extremely low income,  
33 that can be constructed, rehabilitated, and conserved over—  
34 ~~five-year~~ *an eight-year* time period.

35 (c) A program which sets forth a ~~five-year~~ schedule of actions  
36 the local government is undertaking or intends to undertake to  
37 implement the policies and achieve the goals and objectives of the  
38 housing element through the administration of land use and  
39 development controls, the provision of regulatory concessions and  
40 incentives, and the utilization of appropriate federal and state

1 financing and subsidy programs when available and the utilization  
2 of moneys in a low- and moderate-income housing fund of an  
3 agency if the locality has established a redevelopment project area  
4 pursuant to the Community Redevelopment Law (Division 24  
5 (commencing with Section 33000) of the Health and Safety Code).  
6 In order to make adequate provision for the housing needs of all  
7 economic segments of the community, the program shall do all of  
8 the following:

9 (1) Identify actions that will be taken to make sites available  
10 ~~during the planning period of the general plan~~ with appropriate  
11 zoning and development standards and with services and facilities  
12 to accommodate that portion of the city's or county's share of the  
13 regional housing need for each income level that could not be  
14 accommodated on sites identified in the inventory completed  
15 pursuant to paragraph (3) of subdivision (a) without rezoning, and  
16 to comply with the requirements of Section 65584.09.  
17 *Notwithstanding any other provision of law, all of the actions*  
18 *identified pursuant to this paragraph, including rezonings and*  
19 *availability of services and facilities, shall be completed and in*  
20 *effect no later than three years after the due date for adopting the*  
21 *final housing element specified in Section 65588 or 65584.02.*  
22 *Zoning undertaken to satisfy the requirements of this paragraph*  
23 *shall allow development of a site at the necessary density range*  
24 *without a requirement for further rezoning of the site.* Sites shall  
25 be identified as needed to facilitate and encourage the development  
26 of a variety of types of housing for all income levels, including  
27 multifamily rental housing, factory-built housing, mobilehomes,  
28 housing for agricultural employees, supportive housing,  
29 single-room occupancy units, emergency shelters, and transitional  
30 housing.

31 (A) Where the inventory of sites, pursuant to paragraph (3) of  
32 subdivision (a), does not identify adequate sites to accommodate  
33 the need for groups of all household income levels pursuant to  
34 Section 65584, the program shall identify sites that can be  
35 developed for housing within the planning period pursuant to  
36 subdivision (h) of Section 65583.2.

37 (B) Where the inventory of sites pursuant to paragraph (3) of  
38 subdivision (a) does not identify adequate sites to accommodate  
39 the need for farmworker housing, the program shall provide for  
40 sufficient sites to meet the need with zoning that permits

1 farmworker housing use by right, including density and  
2 development standards that could accommodate and facilitate the  
3 feasibility of the development of farmworker housing for low- and  
4 very low income households.

5 (2) Assist in the development of adequate housing to meet the  
6 needs of extremely low, very low, low-, and moderate-income  
7 households.

8 (3) Address and, where appropriate and legally possible, remove  
9 governmental constraints to the maintenance, improvement, and  
10 development of housing, including housing for all income levels  
11 and housing for persons with disabilities. The program shall remove  
12 constraints to, and provide reasonable accommodations for housing  
13 designed for, intended for occupancy by, or with supportive  
14 services for, persons with disabilities.

15 (4) Conserve and improve the condition of the existing  
16 affordable housing stock, which may include addressing ways to  
17 mitigate the loss of dwelling units demolished by public or private  
18 action.

19 (5) Promote housing opportunities for all persons regardless of  
20 race, religion, sex, marital status, ancestry, national origin, color,  
21 familial status, or disability.

22 (6) Preserve for lower income households the assisted housing  
23 developments identified pursuant to paragraph (9) of subdivision  
24 (a). The program for preservation of the assisted housing  
25 developments shall utilize, to the extent necessary, all available  
26 federal, state, and local financing and subsidy programs identified  
27 in paragraph (9) of subdivision (a), except where a community has  
28 other urgent needs for which alternative funding sources are not  
29 available. The program may include strategies that involve local  
30 regulation and technical assistance.

31 (7) The program shall include an identification of the agencies  
32 and officials responsible for the implementation of the various  
33 actions and the means by which consistency will be achieved with  
34 other general plan elements and community goals. The local  
35 government shall make a diligent effort to achieve public  
36 participation of all economic segments of the community in the  
37 development of the housing element, and the program shall  
38 describe this effort.

39 (d) (1) A local government may satisfy all or part of its  
40 requirement to identify a zone or zones suitable for the

1 development of emergency shelters pursuant to paragraph (4) of  
2 subdivision (a) by adopting and implementing a multijurisdictional  
3 agreement, with a maximum of two other adjacent communities,  
4 that requires the participating jurisdictions to develop at least one  
5 year-round emergency shelter within two years of the beginning  
6 of the planning period.

7 (2) The agreement shall allocate a portion of the new shelter  
8 capacity to each jurisdiction as credit towards its emergency shelter  
9 need, and each jurisdiction shall describe how the capacity was  
10 allocated as part of its housing element.

11 (3) Each member jurisdiction of a multijurisdictional agreement  
12 shall describe in its housing element all of the following:

13 (A) How the joint facility will meet the jurisdiction's emergency  
14 shelter need.

15 (B) The jurisdiction's contribution to the facility for both the  
16 development and ongoing operation and management of the  
17 facility.

18 (C) The amount and source of the funding that the jurisdiction  
19 contributes to the facility.

20 (4) The aggregate capacity claimed by the participating  
21 jurisdictions in their housing elements shall not exceed the actual  
22 capacity of the shelter.

23 (e) Except as otherwise provided in this article, amendments to  
24 this article that alter the required content of a housing element  
25 shall apply to both of the following:

26 (1) A housing element or housing element amendment prepared  
27 pursuant to subdivision (e) of Section 65588 or Section 65584.02,  
28 when a city, county, or city and county submits a draft to the  
29 department for review pursuant to Section 65585 more than 90  
30 days after the effective date of the amendment to this section.

31 (2) Any housing element or housing element amendment  
32 prepared pursuant to subdivision (e) of Section 65588 or Section  
33 65584.02, when the city, county, or city and county fails to submit  
34 the first draft to the department before the due date specified in  
35 Section 65588 or 65584.02.

36 *SEC. 6. Section 65584 of the Government Code is amended to*  
37 *read:*

38 65584. (a) (1) For the fourth and subsequent revisions of the  
39 housing element pursuant to Section 65588, the department shall  
40 determine the existing and projected need for housing *for an*

1 *eight-year period* for each region pursuant to this article. For  
2 purposes of subdivision (a) of Section 65583, the share of a city  
3 or county of the regional housing need shall include that share of  
4 the housing need of persons at all income levels within the area  
5 significantly affected by the general plan of the city or county.

6 (2) While it is the intent of the Legislature that cities, counties,  
7 and cities and counties should undertake all necessary actions to  
8 encourage, promote, and facilitate the development of housing to  
9 accommodate the entire regional housing need, it is recognized,  
10 however, that future housing production may not equal the regional  
11 housing need established for planning purposes.

12 (b) The department, in consultation with each council of  
13 governments, shall determine each region's existing and projected  
14 housing need pursuant to Section 65584.01 at least ~~two~~ *three* years  
15 prior to the scheduled revision required pursuant to Section 65588.  
16 The appropriate council of governments, or for cities and counties  
17 without a council of governments, the department, shall adopt a  
18 final regional housing need plan that allocates a share of the  
19 regional housing need to each city, county, or city and county at  
20 least one year prior to the scheduled revision for the region required  
21 by Section 65588. The allocation plan prepared by a council of  
22 governments shall be prepared pursuant to Sections 65584.04 and  
23 65584.05 with the advice of the department.

24 (c) Notwithstanding any other provision of law, the due dates  
25 for the determinations of the department or for the council of  
26 governments, respectively, regarding the regional housing need  
27 may be extended by the department by not more than 60 days if  
28 the extension will enable access to more recent critical population  
29 or housing data from a pending or recent release of the United  
30 States Census Bureau or the Department of Finance. If the due  
31 date for the determination of the department or the council of  
32 governments is extended for this reason, the department shall  
33 extend the corresponding housing element revision deadline  
34 pursuant to Section 65588 by not more than 60 days.

35 (d) The regional housing needs allocation plan shall be  
36 consistent with all of the following objectives:

37 (1) Increasing the housing supply and the mix of housing types,  
38 tenure, and affordability in all cities and counties within the region  
39 in an equitable manner, which shall result in each jurisdiction

1 receiving an allocation of units for low- and very low income  
2 households.

3 (2) Promoting infill development and socioeconomic equity,  
4 the protection of environmental and agricultural resources, and  
5 the encouragement of efficient development patterns.

6 (3) Promoting an improved intraregional relationship between  
7 jobs and housing.

8 (4) Allocating a lower proportion of housing need to an income  
9 category when a jurisdiction already has a disproportionately high  
10 share of households in that income category, as compared to the  
11 countywide distribution of households in that category from the  
12 most recent decennial United States census.

13 (e) For purposes of this section, “household income levels” are  
14 as determined by the department as of the most recent decennial  
15 census pursuant to the following code sections:

16 (1) Very low incomes as defined by Section 50105 of the Health  
17 and Safety Code.

18 (2) Lower incomes, as defined by Section 50079.5 of the Health  
19 and Safety Code.

20 (3) Moderate incomes, as defined by Section 50093 of the Health  
21 and Safety Code.

22 (4) Above moderate incomes are those exceeding the  
23 moderate-income level of Section 50093 of the Health and Safety  
24 Code.

25 (f) Notwithstanding any other provision of law, determinations  
26 made by the department, a council of governments, or a city or  
27 county pursuant to this section or Section 65584.01, 65584.02,  
28 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08  
29 are exempt from the California Environmental Quality Act  
30 (Division 13 (commencing with Section 21000) of the Public  
31 Resources Code).

32 *SEC. 7. Section 65584.01 of the Government Code is amended*  
33 *to read:*

34 65584.01. (a) For the fourth and subsequent revision of the  
35 housing element pursuant to Section 65588, the department, in  
36 consultation with each council of governments, where applicable,  
37 shall determine the existing and projected need for housing *for an*  
38 *eight-year period* for each region in the following manner:

39 (b) The department’s determination shall be based upon  
40 population projections produced by the Department of Finance

1 and regional population forecasts used in preparing regional  
2 transportation plans, in consultation with each council of  
3 governments. If the total regional population forecast for the  
4 planning period, developed by the council of governments and  
5 used for the preparation of the regional transportation plan, is  
6 within a range of 3 percent of the total regional population forecast  
7 for the planning period over the same time period by the  
8 Department of Finance, then the population forecast developed by  
9 the council of governments shall be the basis from which the  
10 department determines the existing and projected need for housing  
11 in the region. If the difference between the total population growth  
12 projected by the council of governments and the total population  
13 growth projected for the region by the Department of Finance is  
14 greater than 3 percent, then the department and the council of  
15 governments shall meet to discuss variances in methodology used  
16 for population projections and seek agreement on a population  
17 projection for the region to be used as a basis for determining the  
18 existing and projected housing need for the region. If no agreement  
19 is reached, then the population projection for the region shall be  
20 the population projection for the region prepared by the Department  
21 of Finance as may be modified by the department as a result of  
22 discussions with the council of governments.

23 (c) (1) At least ~~26~~ 38 months prior to the scheduled revision  
24 pursuant to Section 65588 and prior to developing the existing and  
25 projected housing need for a region, the department shall meet and  
26 consult with the council of governments regarding the assumptions  
27 and methodology to be used by the department to determine the  
28 region's housing needs. The council of governments shall provide  
29 data assumptions from the council's projections, including, if  
30 available, the following data for the region:

31 (A) Anticipated household growth associated with projected  
32 population increases.

33 (B) Household size data and trends in household size.

34 (C) The rate of household formation, or headship rates, based  
35 on age, gender, ethnicity, or other established demographic  
36 measures.

37 (D) The vacancy rates in existing housing stock, and the vacancy  
38 rates for healthy housing market functioning and regional mobility,  
39 as well as housing replacement needs.

1 (E) Other characteristics of the composition of the projected  
2 population.

3 (2) The department may accept or reject the information  
4 provided by the council of governments or modify its own  
5 assumptions or methodology based on this information. After  
6 consultation with the council of governments, the department shall  
7 make determinations in writing on the assumptions for each of the  
8 factors listed in subparagraphs (A) to (E), inclusive, of paragraph  
9 (1) and the methodology it shall use and shall provide these  
10 determinations to the council of governments.

11 (d) (1) After consultation with the council of governments, the  
12 department shall make a determination of the region's existing  
13 and projected housing need based upon the assumptions and  
14 methodology determined pursuant to subdivision (c). Within 30  
15 days following notice of the determination from the department,  
16 the council of governments may file an objection to the  
17 department's determination of the region's existing and projected  
18 housing need with the department.

19 (2) The objection shall be based on and substantiate either of  
20 the following:

21 (A) The department failed to base its determination on the  
22 population projection for the region established pursuant to  
23 subdivision (b), and shall identify the population projection which  
24 the council of governments believes should instead be used for the  
25 determination and explain the basis for its rationale.

26 (B) The regional housing need determined by the department  
27 is not a reasonable application of the methodology and assumptions  
28 determined pursuant to subdivision (c). The objection shall include  
29 a proposed alternative determination of its regional housing need  
30 based upon the determinations made in subdivision (c), including  
31 analysis of why the proposed alternative would be a more  
32 reasonable application of the methodology and assumptions  
33 determined pursuant to subdivision (c).

34 (3) If a council of governments files an objection pursuant to  
35 this subdivision and includes with the objection a proposed  
36 alternative determination of its regional housing need, it shall also  
37 include documentation of its basis for the alternative determination.  
38 Within 45 days of receiving an objection filed pursuant to this  
39 section, the department shall consider the objection and make a  
40 final written determination of the region's existing and projected

1 housing need that includes an explanation of the information upon  
2 which the determination was made.

3 *SEC. 8. Section 65584.05 of the Government Code is amended*  
4 *to read:*

5 65584.05. (a) At least one and one-half years prior to the  
6 scheduled revision required by Section 65588, each council of  
7 governments and delegate subregion, as applicable, shall distribute  
8 a draft allocation of regional housing needs to each local  
9 government in the region or subregion, where applicable, based  
10 on the methodology adopted pursuant to Section 65584.04. The  
11 draft allocation shall include the underlying data and methodology  
12 on which the allocation is based. ~~It is the intent of the Legislature~~  
13 ~~that the~~ *The draft allocation shall* be distributed prior to the  
14 completion of the update of the applicable regional transportation  
15 plan. The draft allocation shall distribute to localities and  
16 subregions, if any, within the region the entire regional housing  
17 need determined pursuant to Section 65584.01 or within  
18 subregions, as applicable, the subregion's entire share of the  
19 regional housing need determined pursuant to Section 65584.03.

20 (b) Within 60 days following receipt of the draft allocation, a  
21 local government may request from the council of governments  
22 or the delegate subregion, as applicable, a revision of its share of  
23 the regional housing need in accordance with the factors described  
24 in paragraphs (1) to (9), inclusive, of subdivision (d) of Section  
25 65584.04, including any information submitted by the local  
26 government to the council of governments pursuant to subdivision  
27 (b) of that section. The request for a revised share shall be based  
28 upon comparable data available for all affected jurisdictions and  
29 accepted planning methodology, and supported by adequate  
30 documentation.

31 (c) Within 60 days after the request submitted pursuant to  
32 subdivision (b), the council of governments or delegate subregion,  
33 as applicable, shall accept the proposed revision, modify its earlier  
34 determination, or indicate, based upon the information and  
35 methodology described in Section 65584.04, why the proposed  
36 revision is inconsistent with the regional housing need.

37 (d) If the council of governments or delegate subregion, as  
38 applicable, does not accept the proposed revised share or modify  
39 the revised share to the satisfaction of the requesting party, the

1 local government, may appeal its draft allocation based upon either  
2 or both of the following criteria:

3 (1) The council of governments or delegate subregion, as  
4 applicable, failed to adequately consider the information submitted  
5 pursuant to subdivision (b) of Section 65584.04, or a significant  
6 and unforeseen change in circumstances has occurred in the local  
7 jurisdiction that merits a revision of the information submitted  
8 pursuant to that subdivision.

9 (2) The council of governments or delegate subregion, as  
10 applicable, failed to determine its share of the regional housing  
11 need in accordance with the information described in, and the  
12 methodology established pursuant to Section 65584.04.

13 (e) The council of governments or delegate subregion, as  
14 applicable, shall conduct public hearings to hear all appeals within  
15 60 days of the date established to file appeals. The local  
16 government shall be notified within 10 days by certified mail,  
17 return receipt requested, of at least one public hearing on its appeal.  
18 The date of the hearing shall be at least 30 days and not more than  
19 35 days from the date of the notification. Before taking action on  
20 an appeal, the council of governments or delegate subregion, as  
21 applicable, shall consider all comments, recommendations, and  
22 available data based on accepted planning methodologies submitted  
23 by the appellant. The final action of the council of governments  
24 or delegate subregion, as applicable, on an appeal shall be in  
25 writing and shall include information and other evidence explaining  
26 how its action is consistent with this article. The final action on  
27 an appeal may require the council of governments or delegate  
28 subregion, as applicable, to adjust the allocation of a local  
29 government that is not the subject of an appeal.

30 (f) The council of governments or delegate subregion, as  
31 applicable, shall issue a proposed final allocation within 45 days  
32 of the completion of the 60-day period for hearing appeals. The  
33 proposed final allocation plan shall include responses to all  
34 comments received on the proposed draft allocation and reasons  
35 for any significant revisions included in the final allocation.

36 (g) In the proposed final allocation plan, the council of  
37 governments or delegate subregion, as applicable, shall adjust  
38 allocations to local governments based upon the results of the  
39 appeals process specified in this section. If the adjustments total  
40 7 percent or less of the regional housing need determined pursuant

1 to Section 65584.01, or, as applicable, total 7 percent or less of  
2 the subregion's share of the regional housing need as determined  
3 pursuant to Section 65584.03, then the council of governments or  
4 delegate subregion, as applicable, shall distribute the adjustments  
5 proportionally to all local governments. If the adjustments total  
6 more than 7 percent of the regional housing need, then the council  
7 of governments or delegate subregion, as applicable, shall develop  
8 a methodology to distribute the amount greater than the 7 percent  
9 to local governments. In no event shall the total distribution of  
10 housing need equal less than the regional housing need, as  
11 determined pursuant to Section 65584.01, nor shall the subregional  
12 distribution of housing need equal less than its share of the regional  
13 housing need as determined pursuant to Section 65584.03. Two  
14 or more local governments may agree to an alternate distribution  
15 of appealed housing allocations between the affected local  
16 governments. If two or more local governments agree to an  
17 alternative distribution of appealed housing allocations that  
18 maintains the total housing need originally assigned to these  
19 communities, then the council of governments shall include the  
20 alternative distribution in the final allocation plan.

21 (h) Within 45 days of the issuance of the proposed final  
22 allocation plan by the council of governments and each delegate  
23 subregion, as applicable, the council of governments shall hold a  
24 public hearing to adopt a final allocation plan. To the extent that  
25 the final allocation plan fully allocates the regional share of  
26 statewide housing need, as determined pursuant to Section  
27 65584.01, the council of governments shall have final authority  
28 to determine the distribution of the region's existing and projected  
29 housing need as determined pursuant to Section 65584.01. Within  
30 60 days of adoption by the council of governments, the department  
31 shall determine whether or not the final allocation plan is consistent  
32 with the existing and projected housing need for the region, as  
33 determined pursuant to Section 65584.01. The department may  
34 revise the determination of the council of governments if necessary  
35 to obtain this consistency.

36 (i) Any authority of the council of governments to review and  
37 revise the share of a city or county of the regional housing need  
38 under this section shall not constitute authority to revise, approve,  
39 or disapprove the manner in which the share of the city or county

1 of the regional housing need is implemented through its housing  
2 program.

3 *SEC. 9. No reimbursement is required by this act pursuant to*  
4 *Section 6 of Article XIII B of the California Constitution because*  
5 *a local agency or school district has the authority to levy service*  
6 *charges, fees, or assessments sufficient to pay for the program or*  
7 *level of service mandated by this act, within the meaning of Section*  
8 *17556 of the Government Code.*

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***All matter omitted in this version of the bill  
appears in the bill as amended in Assembly,  
June 25, 2007 (JR11)***