

AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 375

Introduced by Senator Steinberg

February 21, 2007

An act to amend Sections 65070, 65074, 65080, 65080.5, 65081.3, 65082, 65088.1, and 65088.4 of, and to add Sections 14522.1, 14522.2, 14522.5, and 65086.6 to the Government Code, and to add Chapter 4.2 (commencing with Section 21155) to Division 13 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 375, as amended, Steinberg. Transportation planning: travel demand models: preferred growth scenarios: environmental review.

(1) Existing law requires certain transportation planning activities by the Department of Transportation and by designated regional transportation planning agencies, including development of a regional transportation plan. Existing law authorizes the California Transportation Commission, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation.

This bill would require the commission, by April 1, 2008, to adopt guidelines for the use of travel demand models used in the development of regional transportation plans by *certain* regional transportation planning agencies. ~~The bill would require a regional transportation planning agency for a region with a population of 800,000 or more to use those guidelines.~~ The bill would require the Department of

Transportation to assist the commission, on request, in this regard, and would impose other related requirements.

This bill would also require the regional transportation plan to include a preferred growth scenario, as specified, designed to achieve certain goals for the reduction of vehicle miles traveled in a region. The bill would require the State Air Resources Board to provide each region with greenhouse gas emission reduction targets for 2020 and 2050 by an unspecified date, and would require the preferred growth scenario to inventory the region's emission of those ~~gasses~~ *gases* and establish measures to reduce those emissions consistent with the targets. The bill would require certain transportation planning and programming activities by regional agencies to be consistent with the preferred growth scenario, including the programming of transportation projects in the regional transportation improvement program and the implementation of infill opportunity zones, among other things.

Because the bill would impose additional duties on local agencies, it would impose a state-mandated local program.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would require the environmental document prepared pursuant to CEQA to only examine the significant or potentially significant project specific impacts of a project located in a local jurisdiction that has amended its general plan so that the land use, circulation, housing, and open-space elements of the general plan are consistent with the preferred growth scenario most recently adopted by the metropolitan planning organization, pursuant to the requirements specified in the bill, if the project is a residential project or a residential or mixed use project, ~~a project and is on an infill site, and located within an urbanized area.~~

The bill would provide that no additional review is required pursuant to CEQA for a project if the legislative body of a local jurisdiction that

has amended its general plan, as provided above, finds, after conducting a public hearing, that the project meets certain criteria and is declared to be a sustainable communities project.

The bill would also authorize the legislative body of such a local jurisdiction within an urbanized area to adopt traffic mitigation ~~policies~~ *measures* for all future residential projects. The bill would exempt a residential project seeking a land use approval from compliance with additional ~~mitigation~~ measures for traffic impacts, if the local jurisdiction that has adopted ~~that those~~ traffic mitigation ~~policies~~ *measures*.

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The transportation sector contributes over 40 percent of the
4 greenhouse gas emissions in the State of California; vehicles alone
5 contribute 35 percent. The transportation sector is the single largest
6 contributor of greenhouse gases of any sector.

7 (b) In 2006, the Legislature passed and the Governor signed
8 Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter
9 AB 32), which requires the State of California to reduce its
10 greenhouse gas emissions to 1990 levels no later than 2020. In
11 1990, greenhouse gas emissions from vehicles were approximately
12 73 million metric tons, but by 2006 these emissions had increased
13 to approximately 100 million metric tons.

14 (c) Greenhouse gas emissions from vehicles can be substantially
15 reduced by new vehicle technology and by the increased use of
16 low carbon fuel. However, even taking these measures into account,
17 it will be necessary to achieve significant additional greenhouse
18 gas reductions from changed land use patterns and improved
19 transportation. Without significant changes in land use and

1 transportation policy, California will not be able to achieve the
2 goals of AB 32.

3 (d) In addition, vehicles account for 50 percent of air pollution
4 in California and ___ percent of its consumption of petroleum.
5 Changes in land use and transportation policy will provide
6 significant assistance to California's goals to implement the federal
7 and state Clean Air Acts and to reduce its dependence on
8 petroleum.

9 (e) Current planning models and analytical techniques used for
10 making transportation infrastructure decisions and for air quality
11 planning should be able to assess the effects of policy choices,
12 such as residential development patterns, expanded transit service
13 and accessibility, the walkability of communities, and the use of
14 economic incentives and disincentives ~~such as tolls, transit pricing,
15 and parking charges.~~

16 SEC. 2. Section 14522.1 is added to the Government Code, to
17 read:

18 14522.1. (a) (1) The commission, in consultation with the
19 State Air Resources Board, shall adopt guidelines for the use of
20 travel demand models used in the development of regional
21 transportation plans by regional transportation planning agencies
22 designated pursuant to Section 29532. ~~The for (A) federally~~
23 *designated metropolitan planning organizations, (B) county*
24 *transportation agencies in areas that have been designated as*
25 *nonattainment areas under the federal Clean Air Act, and (C) in*
26 *the Counties of Imperial, Los Angeles, Orange, Riverside, San*
27 *Bernardino, and Ventura, the agency described in Section 130004*
28 *of the Public Utilities Code.*

29 (2) *The preparation of the guidelines shall include the formation*
30 *of an advisory committee that shall include representatives of the*
31 *regional transportation planning agencies, the department,*
32 *organizations knowledgeable in the creation and use of travel*
33 *demand models, local governments, and organizations concerned*
34 *with the impacts of transportation investments on communities*
35 *and the environment. The commission shall hold two workshops*
36 *on the guidelines, one in northern-california California and one in*
37 ~~Southern~~ *southern California. The workshops shall be incorporated*
38 *into regular commission meetings.*

39 (b) The department shall assist the commission in the preparation
40 of the guidelines, if requested to do so by the commission.

1 (c) The guidelines shall, at a minimum and to the extent
2 practicable, ~~require that the models do~~ *account for* all of the
3 following:

4 (1) ~~Account for the~~ *The* relationship between land use density
5 and household vehicle ownership and vehicle miles traveled in a
6 way that is consistent with statistical research.

7 (2) ~~Account for the~~ *The* impact of enhanced transit service levels
8 on household vehicle ownership and vehicle miles traveled.

9 (3) ~~Account for induced~~ *Induced* travel and induced land
10 development resulting from highway or passenger rail expansion.

11 (4) ~~Include mode split models that allocate~~ *Mode splitting that*
12 *allocates* trips between automobile, transit, carpool, and bicycle
13 and pedestrian trips. If a travel demand model is unable to forecast
14 bicycle and pedestrian trips, another means may be used to estimate
15 those trips.

16 (d) The guidelines shall be adopted on or before April 1, 2008.

17 SEC. 3. Section 14522.2 is added to the Government Code, to
18 read:

19 ~~14522.2. (a) The guidelines adopted pursuant to Section~~
20 ~~14522.1 shall apply to a regional transportation planning agency~~
21 ~~for a region with a population of 800,000 or more as of the most~~
22 ~~recent decennial census. In the Counties of Imperial, Los Angeles,~~
23 ~~Orange, Riverside, San Bernardino, and Ventura, that agency shall~~
24 ~~be the agency described in Section 130004 of the Public Utilities~~
25 ~~Code.~~

26 (b) ~~A regional transportation planning agency for a region with~~
27 ~~a population of less than 800,000 as of the most recent decennial~~
28 ~~census may, at its discretion, follow the guidelines.~~

29 (e) ~~—~~

30 ~~14522.2. (a) A regional transportation planning agency shall~~
31 ~~disseminate the methodology, results, and key assumptions of~~
32 ~~whichever travel demand model it uses in a way that would be~~
33 ~~useable and understandable to the public.~~

34 (b) ~~Transportation planning agencies other than those identified~~
35 ~~in paragraph (1) of subdivision (a) of Section 14522.1 are~~
36 ~~encouraged to utilize the guidelines.~~

37 SEC. 4. Section 14522.5 is added to the Government Code, to
38 read:

39 ~~14522.5. A regional transportation planning agency described~~
40 ~~in subdivision (a) of Section 14522.2 paragraph (1) of subdivision~~

1 (a) of Section 14522.1 shall report to the commission on how the
2 regional travel demand model supports corridor planning and small
3 area planning, at the time the regional transportation plan is
4 submitted to the commission and department pursuant to Section
5 65080.

6 SEC. 5. Section 65070 of the Government Code is amended
7 to read:

8 65070. (a) The Legislature finds and declares, consistent with
9 Section 65088, that it is in the interest of the State of California to
10 have an integrated state and regional transportation planning
11 process. It further finds that federal law mandates the development
12 of a state and regional long-range transportation plan as a
13 prerequisite for receipt of federal transportation funds. It is the
14 intent of the Legislature that the preparation of these plans shall
15 be a cooperative process involving local and regional government,
16 members of the public, transit operators, congestion management
17 agencies, and the goods movement industry and that the process
18 be a continuation of activities performed by each entity and be
19 performed without any additional cost.

20 (b) The Legislature further finds and declares that the last
21 attempt to prepare a California Transportation Plan occurred
22 between 1973 and 1977 and resulted in the expenditure of over
23 eighty million dollars (\$80,000,000) in public funds and did not
24 produce a usable document. As a consequence of that, the
25 Legislature delegated responsibility for long-range transportation
26 planning to the regional planning agencies and adopted a
27 seven-year programming cycle instead of a longer range planning
28 process for the state.

29 (c) The Legislature further finds and declares that the
30 Transportation Blueprint for the Twenty-First Century (Chapters
31 105 and 106 of the Statutes of 1989) is a long-range state
32 transportation plan that includes a financial plan and a continuing
33 planning process through the preparation of congestion
34 management plans and regional transportation plans, and identifies
35 major interregional road networks and passenger rail corridors for
36 the state.

37 SEC. 6. Section 65074 of the Government Code is amended
38 to read:

39 65074. The Department of Transportation shall prepare, in
40 cooperation with the metropolitan planning agencies, a federal

1 transportation improvement program in accordance with subsection
2 (f) of Section 135 of Title 23 of the United States Code. The federal
3 transportation improvement program shall be submitted by the
4 department to the United States Secretary of Transportation, by
5 October 1 of each even-numbered year. The projects and
6 improvements identified in that plan shall be consistent with the
7 regional transportation plans adopted by the metropolitan planning
8 organizations pursuant to Section 65080.

9 SEC. 7. Section 65080 of the Government Code is amended
10 to read:

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

25 (b) The regional transportation plan shall include all of the
26 following:

27 (1) A policy element that describes the transportation issues in
28 the region, identifies and quantifies regional needs, and describes
29 the desired short-range and long-range transportation goals, and
30 pragmatic objective and policy statements. The objective and policy
31 statements shall be consistent with the funding estimates of the
32 financial element. The policy element of transportation planning
33 agencies with populations that exceed 200,000 persons may
34 quantify a set of indicators including, but not limited to, all of the
35 following:

36 (A) Measures of mobility and traffic congestion, including, but
37 not limited to, vehicle hours of delay per capita and vehicle miles
38 traveled per capita.

1 (B) Measures of road and bridge maintenance and rehabilitation
2 needs, including, but not limited to, roadway pavement and bridge
3 conditions.

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

7 (i) Single occupant vehicle.

8 (ii) Multiple occupant vehicle or carpool.

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

10 (iv) Walking.

11 (v) Bicycling.

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

15 (E) Measures of equity and accessibility, including, but not
16 limited to, percentage of the population served by frequent and
17 reliable public transit, with a breakdown by income bracket, and
18 percentage of all jobs accessible by frequent and reliable public
19 transit service, with a breakdown by income bracket.

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

23 (2) (A) A preferred growth scenario that (i) identifies areas
24 within the region sufficient to house all the population of the region
25 including all economic segments of the population over the course
26 of the planning period taking into account net migration into the
27 region, population growth, household formation and employment
28 growth; (ii) identifies significant resource ~~land~~ *areas* and significant
29 farmland and excludes from development areas in the preferred
30 growth scenario ~~all publicly owned parks, open space, and~~
31 ~~easement lands; open-space or habitat areas protected by natural~~
32 ~~community conservation plans, habitat conservation plans, or other~~
33 ~~adopted natural resource protection plans; and, to the greatest~~
34 ~~extent feasible, other significant resource lands~~ *the significant*
35 *resource areas defined in paragraphs (1) and (2) of subdivision*
36 *(a) of Section 65086.6 and other adopted natural resource*
37 *protection plans, and, pursuant to the requirements of*
38 *subparagraph (E), the significant resource areas defined in*
39 *paragraphs (3), (4), (5), and (6) of subdivision (a) of Section*
40 *65086.6 and significant farmlands; and (iii) will allow the plan to*

1 comply with Section 176 of the federal Clean Air Act (42 U.S.C.
2 Sec. 7506).

3 (B) No later than ____, the State Air Resources Board shall
4 provide each region with greenhouse gas emission targets for 2020
5 and 2050, respectively, in order to implement Chapter 488 of the
6 Statutes of 2006. In making these determinations, the board shall
7 consider greenhouse gas reductions that will be achieved by
8 improved vehicle emission standards, changes in fuel consumption,
9 and other measures it has approved that will reduce greenhouse
10 gas emissions in the regions. Consistent with data provided by the
11 board, a preferred growth scenario shall inventory the region's
12 emission of greenhouse gases and establish measures to reduce
13 these emissions by an amount consistent with targets developed
14 by the board.

15 (C) A preferred growth scenario shall be consistent with the
16 state planning priorities specified pursuant to Section 65041.1.

17 (D) A preferred growth scenario does not regulate the use of
18 land, nor shall it be subject to any state review or approval. Nothing
19 in a preferred growth scenario shall be interpreted as superseding
20 or interfering with the exercise of the land use authority of cities
21 and counties within the region.

22 (E) *Before identifying either a significant resource area defined*
23 *in paragraph (3), (4), (5), or (6) of subdivision (a) of Section*
24 *65086.6 or significant farmlands as a development area, the*
25 *transportation planning agency shall adopt findings that (i) the*
26 *area is adjacent to an existing developed area or is within an infill*
27 *area as defined in Division 13 (commencing with Section 21000)*
28 *of the Public Resources Code; (ii) the area is served by all*
29 *necessary utilities; (iii) there is no feasible alternative to identifying*
30 *the area as a development area; (iv) the loss of a significant*
31 *resource area will be fully mitigated; and (v) the area will be*
32 *efficiently utilized for development with a density of at least 10*
33 *dwelling units per acre.*

34 (3) An action element that describes the programs and actions
35 necessary to implement the plan and assigns implementation
36 responsibilities. The action element may describe all projects
37 proposed for development during the 20-year life of the plan.
38 Proposed projects shall be consistent with the preferred growth
39 scenario.

1 The action element shall consider congestion management
2 programming activities carried out within the region.

3 (4) (A) A financial element that summarizes the cost of plan
4 implementation constrained by a realistic projection of available
5 revenues. The financial element shall also contain
6 recommendations for allocation of funds. A county transportation
7 commission created pursuant to Section 130000 of the Public
8 Utilities Code shall be responsible for recommending projects to
9 be funded with regional improvement funds, if the project is
10 consistent with the regional transportation plan. The first five years
11 of the financial element shall be based on the five-year estimate
12 of funds developed pursuant to Section 14524. The financial
13 element may recommend the development of specified new sources
14 of revenue, consistent with the policy element and action element.

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

- 20 (i) State highway expansion.
- 21 (ii) State highway rehabilitation, maintenance, and operations.
- 22 (iii) Local road and street expansion.
- 23 (iv) Local road and street rehabilitation, maintenance, and
24 operation.
- 25 (v) Mass transit, commuter rail, and intercity rail expansion.
- 26 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
27 maintenance, and operations.
- 28 (vii) Pedestrian and bicycle facilities.
- 29 (viii) Environmental enhancements and mitigation.
- 30 (ix) Research and planning.
- 31 (x) Other categories.

32 (c) Each transportation planning agency may also include other
33 factors of local significance as an element of the regional
34 transportation plan, including, but not limited to, issues of mobility
35 for specific sectors of the community, including, but not limited
36 to, senior citizens.

37 (d) Except as otherwise provided in this subdivision, each
38 transportation planning agency shall adopt and submit, every four
39 years, an updated regional transportation plan to the California
40 Transportation Commission and the Department of Transportation.

1 A transportation planning agency located in a federally designated
2 air quality attainment area or that does not contain an urbanized
3 area may at its option adopt and submit a regional transportation
4 plan every five years. When applicable, the plan shall be consistent
5 with federal planning and programming requirements and shall
6 conform to the regional transportation plan guidelines adopted by
7 the California Transportation Commission. Prior to adoption of
8 the regional transportation plan, a public hearing shall be held after
9 the giving of notice of the hearing by publication in the affected
10 county or counties pursuant to Section 6061.

11 SEC. 8. Section 65080.5 of the Government Code is amended
12 to read:

13 65080.5. (a) For each area for which a transportation planning
14 agency is designated under subdivision (c) of Section 29532, or
15 adopts a resolution pursuant to subdivision (c) of Section 65080,
16 the Department of Transportation, in cooperation with the
17 transportation planning agency, and subject to subdivision (e),
18 shall prepare the regional transportation plan, consistent with the
19 requirements of Section 65080, and the updating thereto, for that
20 area and submit it to the governing body or designated policy
21 committee of the transportation planning agency for adoption.
22 Prior to adoption, a public hearing shall be held, after the giving
23 of notice of the hearing by publication in the affected county or
24 counties pursuant to Section 6061. Prior to the adoption of the
25 regional transportation improvement program by the transportation
26 planning agency if it prepared the program, the transportation
27 planning agency shall consider the relationship between the
28 program and the adopted plan. The adopted plan and program, and
29 the updating thereto, shall be submitted to the California
30 Transportation Commission and the department pursuant to
31 subdivision (b) of Section 65080.

32 (b) In the case of a transportation planning agency designated
33 under subdivision (c) of Section 29532, the transportation planning
34 agency may prepare the regional transportation plan for the area
35 under its jurisdiction pursuant to this chapter, if the transportation
36 planning agency, prior to July 1, 1978, adopts by resolution a
37 declaration of intention to do so.

38 (c) In those areas that have a county transportation commission
39 created pursuant to Section 130050 of the Public Utilities Code,
40 the multicounty designated transportation planning agency, as

1 defined in Section 130004 of that code, shall prepare the regional
2 transportation plan and the regional transportation improvement
3 program in consultation with the county transportation
4 commissions.

5 (d) Any transportation planning agency which did not elect to
6 prepare the initial regional transportation plan for the area under
7 its jurisdiction, may prepare the updated plan if it adopts a
8 resolution of intention to do so at least one year prior to the date
9 when the updated plan is to be submitted to the California
10 Transportation Commission.

11 (e) If the department prepares or updates a regional
12 transportation improvement program or regional transportation
13 plan, or both, pursuant to this section, the state-local share of
14 funding the preparation or updating of the plan and program shall
15 be calculated on the same basis as though the preparation or
16 updating were to be performed by the transportation planning
17 agency and funded under Sections 99311, 99313, and 99314 of
18 the Public Utilities Code.

19 SEC. 9. Section 65081.3 of the Government Code is amended
20 to read:

21 65081.3. (a) As a part of its adoption of the regional
22 transportation plan, the designated county transportation
23 commission, regional transportation planning agency, or the
24 Metropolitan Transportation Commission may designate special
25 corridors, which may include, but are not limited to, adopted state
26 highway routes, which, in consultation with the Department of
27 Transportation, cities, counties, and transit operators directly
28 impacted by the corridor, are determined to be of statewide or
29 regional priority for long-term right-of-way preservation.

30 (b) Prior to designating a corridor for priority acquisition, the
31 regional transportation planning agency shall do all of the
32 following:

- 33 (1) Establish geographic boundaries for the proposed corridor.
- 34 (2) Complete a traffic survey, including a preliminary
35 recommendation for transportation modal split, which generally
36 describes the traffic and air quality impacts of the proposed
37 corridor.
- 38 (3) Consider the widest feasible range of possible transportation
39 facilities that could be located in the corridor and the major
40 environmental impacts they may cause to assist in making the

1 corridor more environmentally sensitive and, in the long term, a
2 more viable site for needed transportation improvements.

3 (c) A designated corridor of statewide or regional priority shall
4 be specifically considered in the certified environmental impact
5 report completed for the adopted regional transportation plan
6 required by the California Environmental Quality Act, which shall
7 include a review of the environmental impacts of the possible
8 transportation facilities which may be located in the corridor. The
9 environmental impact report shall comply with the requirements
10 of Division 13 (commencing with Section 21000) of the Public
11 Resources Code and shall include a survey within the corridor
12 boundaries to determine if there exist any of the following:

- 13 (1) Rare or endangered plant or animal species.
- 14 (2) Historical or cultural sites of major significance.
- 15 (3) Wetlands, vernal pools, or other naturally occurring features.

16 (d) The regional transportation planning agency shall designate
17 a corridor for priority acquisition only if, after a public hearing, it
18 finds that the range of potential transportation facilities to be
19 located in the corridor can be constructed in a manner which will
20 avoid or mitigate significant environmental impacts or values
21 identified in subdivision (c), consistent with the California
22 Environmental Quality Act and the state and federal Endangered
23 Species Acts.

24 (e) Notwithstanding any other provision of this section, a
25 corridor of statewide or regional priority may be designated as part
26 of the regional transportation plan only if it is consistent with the
27 preferred growth scenario of the regional transportation plan and
28 it has previously been specifically defined in the plan required
29 pursuant to Section 134 and is consistent with the plan required
30 pursuant to Section 135 of Title 23 of the United States Code.

31 SEC. 10. Section 65082 of the Government Code is amended
32 to read:

33 65082. (a) (1) A five-year regional transportation improvement
34 program shall be prepared, adopted, and submitted to the California
35 Transportation Commission on or before December 15 of each
36 odd-numbered year thereafter, updated every two years, pursuant
37 to Sections 65080 and 65080.5 and the guidelines adopted pursuant
38 to Section 14530.1, to include regional transportation improvement
39 projects and programs proposed to be funded, in whole or in part,
40 in the state transportation improvement program. On and after

1 January 1, 2009, projects and improvements to be funded shall be
2 consistent with regional transportation plans, including the
3 preferred growth scenarios, developed pursuant to Section 65080.
4 *This section shall not apply to projects programmed for funding*
5 *on or before December 31, 2011, that (A) are contained in the*
6 *2006 or 2008 State Transportation Improvement Program or (B)*
7 *are funded pursuant to Chapter 12.49 (commencing with Section*
8 *8879.20) of Division 1 of Title 2 (Proposition 1B).*

9 (2) Major projects shall include current costs updated as of
10 November 1 of the year of submittal and escalated to the
11 appropriate year, and be listed by relative priority, taking into
12 account need, delivery milestone dates, and the availability of
13 funding.

14 (b) Except for those counties that do not prepare a congestion
15 management program pursuant to Section 65088.3, congestion
16 management programs adopted pursuant to Section 65089 shall
17 be incorporated into the regional transportation improvement
18 program submitted to the commission by December 15 of each
19 odd-numbered year.

20 (c) Local projects not included in a congestion management
21 program shall not be included in the regional transportation
22 improvement program. Projects and programs adopted pursuant
23 to subdivision (a) shall be consistent with the capital improvement
24 program adopted pursuant to paragraph (5) of subdivision (b) of
25 Section 65089, and the guidelines adopted pursuant to Section
26 14530.1.

27 (d) Other projects may be included in the regional transportation
28 improvement program if listed separately.

29 (e) Unless a county not containing urbanized areas of over
30 50,000 population notifies the Department of Transportation by
31 July 1 that it intends to prepare a regional transportation
32 improvement program for that county, the department shall, in
33 consultation with the affected local agencies, prepare the program
34 for all counties for which it prepares a regional transportation plan.

35 (f) The requirements for incorporating a congestion management
36 program into a regional transportation improvement program
37 specified in this section do not apply in those counties that do not
38 prepare a congestion management program in accordance with
39 Section 65088.3.

1 (g) The regional transportation improvement program may
2 include a reserve of county shares for providing funds in order to
3 match federal funds.

4 SEC. 11. Section 65086.6 is added to the Government Code,
5 to read:

6 65086.6. The following definitions apply to terms used in this
7 chapter:

8 (a) ~~“Significant resource lands” include (1) all publicly owned~~
9 ~~parks, open space, and easement lands; (2) open space or habitat~~
10 ~~areas protected by natural community conservation plans, habitat~~
11 ~~conservation plans, or other adopted natural resource protection~~
12 ~~plans; (3) areas designated for open space uses in adopted open~~
13 ~~space elements of the local general plan or by local ordinance; (4)~~
14 ~~habitat for protected species; and (5) floodplains, wetlands, riparian~~
15 ~~corridors, vernal ponds, and corridors and open areas needed to~~
16 ~~conserve the most regularly occurring keystone or indicator species.~~
17 *areas” include (1) all publicly owned parks and open space; (2)*
18 *open space or habitat areas protected by natural community*
19 *conservation plans, habitat conservation plans, and other adopted*
20 *natural resource protection plans; (3) lands subject to conservation*
21 *or agricultural easements and lands under Williamson Act*
22 *contracts; (4) areas designated for open-space uses in adopted*
23 *open-space elements of the local general plan or by local*
24 *ordinance; (5) habitat for species identified as candidate, fully*
25 *protected, sensitive, or species of special status by local, state, or*
26 *federal agencies or protected by the federal Endangered Species*
27 *Act of 1973, the California Endangered Species Act, or the Native*
28 *Plant Protection Act; (6) habitat blocks, linkages, or watershed*
29 *units that protect regional populations of native species, including*
30 *sensitive, endemic, keystone, and umbrella species, and the*
31 *ecological processes that maintain them; and (7) floodplains.*

32 (b) “Significant farmland” means farmland that is classified as
33 prime or unique farmland, or farmland of statewide importance
34 and is outside all existing spheres of influence as of January 1,
35 2007.

36 (c) “Consistent with the preferred growth scenario” means that
37 the capacity of the transportation projects or improvements does
38 not exceed that which is necessary to provide reasonable service
39 levels for the preferred growth scenario.

1 SEC. 12. Section 65088.1 of the Government Code is amended
2 to read:

3 65088.1. As used in this chapter the following terms have the
4 following meanings:

5 (a) Unless the context requires otherwise, “regional agency”
6 means the agency responsible for preparation of the regional
7 transportation improvement program.

8 (b) Unless the context requires otherwise, “agency” means the
9 agency responsible for the preparation and adoption of the
10 congestion management program.

11 (c) “Commission” means the California Transportation
12 Commission.

13 (d) “Department” means the Department of Transportation.

14 (e) “Local jurisdiction” means a city, a county, or a city and
15 county.

16 (f) “Parking cash-out program” means an employer-funded
17 program under which an employer offers to provide a cash
18 allowance to an employee equivalent to the parking subsidy that
19 the employer would otherwise pay to provide the employee with
20 a parking space. “Parking subsidy” means the difference between
21 the out-of-pocket amount paid by an employer on a regular basis
22 in order to secure the availability of an employee parking space
23 not owned by the employer and the price, if any, charged to an
24 employee for use of that space.

25 A parking cash-out program may include a requirement that
26 employee participants certify that they will comply with guidelines
27 established by the employer designed to avoid neighborhood
28 parking problems, with a provision that employees not complying
29 with the guidelines will no longer be eligible for the parking
30 cash-out program.

31 (g) “Infill opportunity zone” means a specific area designated
32 by a city or county, pursuant to subdivision (c) of Section 65088.4,
33 zoned for new compact residential or mixed use development
34 within one-third mile of a site with an existing or future rail transit
35 station, a ferry terminal served by either a bus or rail transit service,
36 an intersection of at least two major bus routes, or within 300 feet
37 of a bus rapid transit corridor, in counties with a population over
38 400,000. An infill opportunity zone shall be consistent with the
39 preferred growth scenario in the adopted regional transportation
40 plan. The mixed use development zoning shall consist of three or

1 more land uses that facilitate significant human interaction in close
2 proximity, with residential use as the primary land use supported
3 by other land uses such as office, hotel, health care, hospital,
4 entertainment, restaurant, retail, and service uses. The transit
5 service shall have maximum scheduled headways of 15 minutes
6 for at least 5 hours per day. A qualifying future rail station shall
7 have broken ground on construction of the station and programmed
8 operational funds to provide maximum scheduled headways of 15
9 minutes for at least 5 hours per day.

10 (h) “Interregional travel” means any trips that originate outside
11 the boundary of the agency. A “trip” means a one-direction vehicle
12 movement. The origin of any trip is the starting point of that trip.
13 A round trip consists of two individual trips.

14 (i) “Level of service standard” is a threshold that defines a
15 deficiency on the congestion management program highway and
16 roadway system which requires the preparation of a deficiency
17 plan. It is the intent of the Legislature that the agency shall use all
18 elements of the program to implement strategies and actions that
19 avoid the creation of deficiencies and to improve multimodal
20 mobility.

21 (j) “Multimodal” means the utilization of all available modes
22 of travel that enhance the movement of people and goods,
23 including, but not limited to, highway, transit, nonmotorized, and
24 demand management strategies including, but not limited to,
25 telecommuting. The availability and practicality of specific
26 multimodal systems, projects, and strategies may vary by county
27 and region in accordance with the size and complexity of different
28 urbanized areas.

29 (k) “Performance measure” is an analytical planning tool that
30 is used to quantitatively evaluate transportation improvements and
31 to assist in determining effective implementation actions,
32 considering all modes and strategies. Use of a performance measure
33 as part of the program does not trigger the requirement for the
34 preparation of deficiency plans.

35 (l) “Urbanized area” has the same meaning as is defined in the
36 1990 federal census for urbanized areas of more than 50,000
37 population.

38 (m) “Bus rapid transit corridor” means a bus service that
39 includes at least four of the following attributes:

40 (1) Coordination with land use planning.

- 1 (2) Exclusive right-of-way.
- 2 (3) Improved passenger boarding facilities.
- 3 (4) Limited stops.
- 4 (5) Passenger boarding at the same height as the bus.
- 5 (6) Prepaid fares.
- 6 (7) Real-time passenger information.
- 7 (8) Traffic priority at intersections.
- 8 (9) Signal priority.
- 9 (10) Unique vehicles.

10 SEC. 13. Section 65088.4 of the Government Code is amended
 11 to read:

12 65088.4. (a) It is the intent of the Legislature to balance the
 13 need for level of service standards for traffic with the need to build
 14 infill housing and mixed use commercial developments within
 15 walking distance of mass transit facilities, downtowns, and town
 16 centers and to provide greater flexibility to local governments to
 17 balance these sometimes competing needs.

18 (b) Notwithstanding any other provision of law, level of service
 19 standards described in Section 65089 shall not apply to the streets
 20 and highways within an infill opportunity zone. The city or county
 21 shall do either of the following:

22 (1) Include these streets and highways under an alternative
 23 areawide level of service standard or multimodal composite or
 24 personal level of service standard that takes into account both of
 25 the following:

26 (A) The broader benefits of regional traffic congestion reduction
 27 by siting new residential development within walking distance of,
 28 and no more than one-third mile from, mass transit stations, shops,
 29 and services, in a manner that reduces the need for long vehicle
 30 commutes and improves the jobs-housing balance.

31 (B) Increased use of alternative transportation modes, such as
 32 mass transit, bicycling, and walking.

33 (2) Approve a list of flexible level of service mitigation options
 34 that includes roadway expansion and investments in alternate
 35 modes of transportation that may include, but are not limited to,
 36 transit infrastructure, pedestrian infrastructure, and ridesharing,
 37 vanpool, or shuttle programs.

38 (c) The city or county may designate an infill opportunity zone
 39 by adopting a resolution after determining that the infill opportunity
 40 zone is consistent with the general plan, any applicable specific

1 plan, and any preferred growth scenario adopted pursuant to
2 Section 65080. A city or county may not designate an infill
3 opportunity zone after December 31, 2009.

4 (d) The city or county in which the infill opportunity zone is
5 located shall ensure that a development project shall be completed
6 within the infill opportunity zone not more than four years after
7 the date on which the city or county adopted its resolution pursuant
8 to subdivision (c). If no development project is completed within
9 an infill opportunity zone by the time limit imposed by this
10 subdivision, the infill opportunity zone shall automatically
11 terminate.

12 SEC. 14. Chapter 4.2 (commencing with Section 21155) is
13 added to Division 13 of the Public Resources Code, to read:

14
15 CHAPTER 4.2. IMPLEMENTATION OF THE PREFERRED GROWTH
16 SCENARIO
17

18 21155. (a) This chapter applies only within a local jurisdiction
19 that has amended its general plan so that the land use, circulation,
20 housing and open space elements of the general plan are consistent
21 with the preferred growth scenario most recently adopted by the
22 metropolitan planning organization pursuant to Section 65080 of
23 the Government Code for the region in which the local government
24 is located.

25 (b) For purposes of this section, the land use, circulation,
26 housing and open space elements of the general plan are consistent
27 with the preferred growth scenario only if all of the following
28 requirements are met:

29 (1) The land use and housing elements designate housing, retail,
30 commercial, office, and industrial uses at levels of density and
31 intensity sufficient to accomplish the goals of the preferred growth
32 scenario for those locations.

33 (2) The uses for lands identified in the preferred growth scenario
34 as significant farmlands are limited to agricultural uses, including
35 processing, packing, worker housing, and other ancillary
36 agricultural uses.

37 (3) The uses for ~~lands~~ *areas* that are identified in the preferred
38 growth scenario as significant resource ~~lands~~ *are areas are limited*
39 *to uses that are* consistent with protection of *all* the resource values
40 of those ~~lands~~ *areas*.

1 (4) A local jurisdiction that meets the requirements of this
2 section is an eligible local jurisdiction for purposes of this chapter.

3 21155.2. An environmental document prepared pursuant to
4 this division is required to only examine the significant or
5 potentially significant project specific impacts of a project located
6 in an eligible local jurisdiction, if an environmental impact report
7 has been certified on the preferred growth scenario and on the
8 general plan amendments to conform to the preferred growth
9 scenario, and the project meets both of the following requirements:

10 (a) The project is a residential project or a residential or mixed
11 use project consisting of residential uses and primarily
12 neighborhood-serving goods, services, or retail uses that do not
13 exceed 25 percent of the total floor area of the project.

14 (b) The project is on an infill site ~~located within an urbanized~~
15 ~~area.~~

16 21155.4. If the legislative body of an eligible local jurisdiction
17 finds, after conducting a public hearing, that a project meets all of
18 the requirements of subdivisions (a) and (b) and one of the
19 requirements of subdivision (c), the project is declared to be a
20 sustainable communities' project and no additional review is
21 required pursuant to this division:

22 (a) The project complies with all of the following environmental
23 criteria:

24 (1) The project and other projects approved prior to the approval
25 of the project but not yet built can be adequately served by existing
26 utilities, and the project applicant has paid, or has committed to
27 pay, all applicable in-lieu or development fees.

28 (2) (A) The site of the project does not contain wetlands *or*
29 *riparian areas*, does not have any significant value as a wildlife
30 habitat, and the project does not harm any species protected by the
31 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
32 seq.) or by the Native Plant Protection Act (Chapter 10
33 (commencing with Section 1900) of Division 2 of the Fish and
34 Game Code), the California Endangered Species Act (Chapter 1.5
35 (commencing with Section 2050) of Division 3 of the Fish and
36 Game Code), and the project does not cause the destruction or
37 removal of any species protected by a local ordinance in effect at
38 the time the application for the project was deemed complete.

39 (B) For the purposes of this paragraph "wetlands" has the same
40 meaning as in ~~Section 328.3 of Title 33 of the Code of Federal~~

1 ~~Regulations and “wildlife habitat” means the ecological~~
2 ~~communities upon which wild animals, birds, plants, fish,~~
3 ~~amphibians, and invertebrates depend for their conservation and~~
4 ~~protection. the United States Fish and Wildlife Service Manual,~~
5 ~~Part 660 FW 2 (June 21, 1993).~~

6 (C) For the purposes of this paragraph, “riparian areas” means
7 those areas transitional between terrestrial and aquatic ecosystems
8 and that are distinguished by gradients in biophysical conditions,
9 ecological processes, and biota. A riparian area is an area through
10 which surface and subsurface hydrology connect waterbodies with
11 their adjacent uplands. A riparian area includes those portions of
12 terrestrial ecosystems that significantly influence exchanges of
13 energy and matter with aquatic ecosystems. A riparian area is
14 adjacent to perennial, intermittent, and ephemeral streams, lakes,
15 and estuarine-marine shorelines.

16 (D) For the purposes of this paragraph, “wildlife habitat”
17 means the ecological communities upon which wild animals, birds,
18 plants, fish, amphibians, and invertebrates depend for their
19 conservation and protection.

20 (E) For the purposes of this paragraph, habitat of “significant
21 value” includes wildlife habitat of national, statewide, regional,
22 or local importance; habitat for species protected by the federal
23 Endangered Species Act of 1973, the California Endangered
24 Species Act, or the Native Plant Protection Act; habitat identified
25 as candidate, fully protected, sensitive, or species of special status
26 by local, state, or federal agencies; or habitat essential to the
27 movement of resident or migratory wildlife.

28 (3) The site of the project is not included on any list of facilities
29 and sites compiled pursuant to Section 65962.5 of the Government
30 Code.

31 (4) The site of the project is subject to a preliminary
32 endangerment assessment prepared by a registered environmental
33 assessor to determine the existence of any release of a hazardous
34 substance on the site and to determine the potential for exposure
35 of future occupants to significant health hazards from any nearby
36 property or activity.

37 (A) If a release of a hazardous substance is found to exist on
38 the site, the release shall be removed, or any significant effects of
39 the release shall be mitigated to a level of insignificance in
40 compliance with state and federal requirements.

- 1 (B) If a potential for exposure to significant hazards from
- 2 surrounding properties or activities is found to exist, the effects of
- 3 the potential exposure shall be mitigated to a level of insignificance
- 4 in compliance with state and federal requirements.
- 5 (5) The project does not have a significant effect on historical
- 6 resources pursuant to Section 21084.1.
- 7 (6) The project site is not subject to any of the following:
- 8 (A) A wildland fire hazard, as determined by the Department
- 9 of Forestry and Fire Protection, unless the applicable general plan
- 10 or zoning ordinance contains provisions to mitigate the risk of a
- 11 wildland fire hazard.
- 12 (B) An unusually high risk of fire or explosion from materials
- 13 stored or used on nearby properties.
- 14 (C) Risk of a public health exposure at a level that would exceed
- 15 the standards established by any state or federal agency.
- 16 (D) Seismic risk as a result of being within a delineated
- 17 earthquake fault zone, as determined pursuant to Section 2622, or
- 18 a seismic hazard zone, as determined pursuant to Section 2696,
- 19 unless the applicable general plan or zoning ordinance contains
- 20 provisions to mitigate the risk of an earthquake fault or seismic
- 21 hazard zone.
- 22 (E) Landslide hazard, flood plain, flood way, or restriction zone,
- 23 unless the applicable general plan or zoning ordinance contains
- 24 provisions to mitigate the risk of a landslide or flood.
- 25 (7) The project site is not located on developed open space.
- 26 (A) For the purposes of this paragraph “developed open space”
- 27 means land that meets all of the following criteria:
- 28 (i) Is publicly owned, or financed in whole or in part by public
- 29 funds.
- 30 (ii) Is generally open to, and available for use by, the public.
- 31 (iii) Is predominantly lacking in structural development other
- 32 than structures associated with open spaces, including, but not
- 33 limited to, playgrounds, swimming pools, ballfields, enclosed child
- 34 play areas, and picnic facilities.
- 35 (B) For the purposes of this paragraph “developed open space”
- 36 includes land that has been designated for acquisition by a public
- 37 agency for developed open space, but does not include lands
- 38 acquired by public funds dedicated to the acquisition of land for
- 39 housing purposes.

- 1 (8) The buildings in the project will comply with all green
2 building standards required by the eligible local jurisdiction.
- 3 (b) The project meets all of the following land use criteria:
- 4 (1) The project is located on an infill site.
- 5 (2) The project is a residential project or a residential or mixed
6 use project consisting of residential uses and primarily
7 neighborhood-serving goods, services, or retail uses that do not
8 exceed 25 percent of the total floor area of the project.
- 9 ~~(3) The project is located within an urbanized area.~~
- 10 ~~(4)~~
- 11 (3) The site of the project is not more than eight acres in total
12 area.
- 13 ~~(5)~~
- 14 (4) The project does not contain more than 200 residential units.
- 15 ~~(6)~~
- 16 (5) The project density is at least equal to the applicable density
17 level provided in subparagraph (B) of paragraph (3) of subdivision
18 (c) of Section 65583.2 of the Government Code.
- 19 ~~(7)~~
- 20 (6) The project does not result in any loss in the number of
21 affordable housing units within the project area.
- 22 ~~(8)~~
- 23 (7) The project does not include any single level building that
24 exceeds 75,000 square feet.
- 25 ~~(9)~~
- 26 (8) The project is consistent with the general plan.
- 27 (c) The project meets one of the criteria specified in paragraphs
28 (1) to (4), inclusive:
- 29 (1) The project meets both of the following:
- 30 (A) At least 20 percent of the housing will be sold to families
31 of moderate income, or not less than 10 percent of the housing
32 will be rented to families of low income, or not less than 5 percent
33 of the housing is rented to families of very low income.
- 34 (B) The project developer provides sufficient legal commitments
35 to the appropriate local agency to ensure the continued availability
36 and use of the housing units for very low, low-, and
37 moderate-income households at monthly housing costs determined
38 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of
39 the Government Code. Rental units shall be affordable for at least

1 55 years. Ownership units shall be subject to resale restrictions or
2 equity sharing requirements for at least 30 years.

3 (2) The project developer has paid or will pay in-lieu fees
4 pursuant to a local ordinance in an amount sufficient to result in
5 the development of an equivalent number of units that would
6 otherwise be required pursuant to paragraph (1).

7 (3) The project is located within one-quarter mile of a major
8 transit stop.

9 (4) The project provides public open space equal to or greater
10 than five acres per 1,000 residents of the project.

11 21155.5. (a) The legislative body of an eligible local
12 jurisdiction within an urbanized area may adopt traffic mitigation
13 ~~policies~~ *measures* that would apply to *all* future residential projects.
14 These ~~policies~~ *measures* shall be adopted *or amended* after a public
15 hearing and may include requirements for the installation of traffic
16 control improvements, street or road improvements, and
17 contributions to road improvement or transit funds, transit passes
18 for future residents, or other measures that ~~are reasonably related~~
19 ~~to mitigating~~ *will avoid or mitigate* the traffic impacts of *those*
20 future residential projects.

21 (b) The traffic mitigation ~~policies~~ *measures* adopted pursuant
22 to this section shall apply to *all* residential projects of at least 10
23 units per acre.

24 (c) (1) A residential project seeking a land use approval is not
25 required to comply with any additional mitigation measures
26 required by paragraph (1) or (2) of subdivision (a) of Section
27 21081, for the traffic impacts of that project on intersections,
28 streets, highways, freeways, or mass transit, if the eligible local
29 jurisdiction issuing that land use approval has adopted traffic
30 mitigation ~~policies~~ *measures* in accordance with this section.

31 (2) Paragraph (1) does not restrict the authority of a local
32 jurisdiction to adopt feasible mitigation measures with respect to
33 the impacts of a project on pedestrian or bicycle safety.

34 (d) *The legislative body shall review its traffic mitigation*
35 *measures and update them as needed at least every five years.*

36 SEC. 15. If the Commission on State Mandates determines
37 that this act contains costs mandated by the state, reimbursement
38 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O