

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 17, 2007

**SENATE BILL**

**No. 375**

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**Introduced by Senator Steinberg**

February 21, 2007

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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~~ *entities*. 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, *working in consultation with the affected transportation agencies*, to provide each region with greenhouse gas emission reduction targets *from the automobile and light truck sector* for 2020 and ~~2050~~ 2035 by an unspecified date, *and to update the regional targets, as specified, until 2050*, and would require the preferred growth scenario to inventory the region's emission of those gases *from the automobile and light truck sector* and establish measures to reduce those emissions ~~consistent with~~ *to the greatest extent feasible to achieve* 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, ~~and is on an infill site, and applicable mitigation measures have been or will be incorporated into the project.~~

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 measures for all future residential projects. The bill would exempt a residential project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction that has adopted those traffic mitigation 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

1 gas reductions from changed land use patterns and improved  
2 transportation. Without significant changes in land use and  
3 transportation policy, California will not be able to achieve the  
4 goals of AB 32.

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

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

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

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

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

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

3 (c) The guidelines shall, at a minimum and to the extent  
4 practicable, account for all of the following:

5 (1) The relationship between land use density and household  
6 vehicle ownership and vehicle miles traveled in a way that is  
7 consistent with statistical research.

8 (2) The impact of enhanced transit service levels on household  
9 vehicle ownership and vehicle miles traveled.

10 (3) Induced travel and induced land development resulting from  
11 highway or passenger rail expansion.

12 (4) Mode splitting that allocates trips between automobile,  
13 transit, carpool, and bicycle and pedestrian trips. If a travel demand  
14 model is unable to forecast bicycle and pedestrian trips, another  
15 means may be used to estimate 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) A regional transportation planning agency shall  
20 disseminate the methodology, results, and key assumptions of  
21 whichever travel demand model it uses in a way that would be  
22 useable and understandable to the public.

23 (b) Transportation planning agencies other than those identified  
24 in paragraph (1) of subdivision (a) of Section 14522.1, *cities,*  
25 *counties, and congestion management agencies within multicounty*  
26 *regions* are encouraged, *but not required,* to utilize the guidelines.

27 SEC. 4. Section 14522.5 is added to the Government Code, to  
28 read:

29 14522.5. A regional transportation planning agency described  
30 in paragraph (1) of subdivision (a) of Section 14522.1 shall report  
31 to the commission on how the regional travel demand model  
32 supports corridor planning and small area planning, at the time the  
33 regional transportation plan is submitted to the commission and  
34 department pursuant to Section 65080.

35 SEC. 5. Section 65070 of the Government Code is amended  
36 to read:

37 65070. (a) The Legislature finds and declares, consistent with  
38 Section 65088, that it is in the interest of the State of California to  
39 have an integrated state and regional transportation planning  
40 process. It further finds that federal law mandates the development

1 of a state and regional long-range transportation plan as a  
2 prerequisite for receipt of federal transportation funds. It is the  
3 intent of the Legislature that the preparation of these plans shall  
4 be a cooperative process involving local and regional government,  
5 members of the public, transit operators, congestion management  
6 agencies, and the goods movement industry and that the process  
7 be a continuation of activities performed by each entity and be  
8 performed without any additional cost.

9 (b) The Legislature further finds and declares that the last  
10 attempt to prepare a California Transportation Plan occurred  
11 between 1973 and 1977 and resulted in the expenditure of over  
12 eighty million dollars (\$80,000,000) in public funds and did not  
13 produce a usable document. As a consequence of that, the  
14 Legislature delegated responsibility for long-range transportation  
15 planning to the regional planning agencies and adopted a  
16 seven-year programming cycle instead of a longer range planning  
17 process for the state.

18 (c) The Legislature further finds and declares that the  
19 Transportation Blueprint for the Twenty-First Century (Chapters  
20 105 and 106 of the Statutes of 1989) is a long-range state  
21 transportation plan that includes a financial plan and a continuing  
22 planning process through the preparation of congestion  
23 management plans and regional transportation plans, and identifies  
24 major interregional road networks and passenger rail corridors for  
25 the state.

26 SEC. 6. Section 65074 of the Government Code is amended  
27 to read:

28 65074. The Department of Transportation shall prepare, in  
29 cooperation with the metropolitan planning agencies, a federal  
30 transportation improvement program in accordance with subsection  
31 (f) of Section 135 of Title 23 of the United States Code. The federal  
32 transportation improvement program shall be submitted by the  
33 department to the United States Secretary of Transportation, by  
34 October 1 of each even-numbered year. The projects and  
35 improvements identified in that plan shall be consistent with the  
36 regional transportation plans adopted by the metropolitan planning  
37 organizations pursuant to Section 65080.

38 SEC. 7. Section 65080 of the Government Code is amended  
39 to read:

1     65080. (a) Each transportation planning agency designated  
2 under Section 29532 or 29532.1 shall prepare and adopt a regional  
3 transportation plan directed at achieving a coordinated and balanced  
4 regional transportation system, including, but not limited to, mass  
5 transportation, highway, railroad, maritime, bicycle, pedestrian,  
6 goods movement, and aviation facilities and services. The plan  
7 shall be action-oriented and pragmatic, considering both the  
8 short-term and long-term future, and shall present clear, concise  
9 policy guidance to local and state officials. The regional  
10 transportation plan shall consider factors specified in Section 134  
11 of Title 23 of the United States Code. Each transportation planning  
12 agency shall consider and incorporate, as appropriate, the  
13 transportation plans of cities, counties, districts, private  
14 organizations, and state and federal agencies.

15     (b) The regional transportation plan shall include all of the  
16 following:

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

26     (A) Measures of mobility and traffic congestion, including, but  
27 not limited to, vehicle hours of delay per capita and vehicle miles  
28 traveled per capita.

29     (B) Measures of road and bridge maintenance and rehabilitation  
30 needs, including, but not limited to, roadway pavement and bridge  
31 conditions.

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

35     (i) Single occupant vehicle.

36     (ii) Multiple occupant vehicle or carpool.

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

38     (iv) Walking.

39     (v) Bicycling.

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

4 (E) Measures of equity and accessibility, including, but not  
5 limited to, percentage of the population served by frequent and  
6 reliable public transit, with a breakdown by income bracket, and  
7 percentage of all jobs accessible by frequent and reliable public  
8 transit service, with a breakdown by income bracket.

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

12 (2) (A) A preferred growth scenario, *consistent with the*  
13 *requirements of Section 450 of Title 23 of, and Section 93 of Title*  
14 *40 of, the Code of Federal Regulations*, that (i) identifies areas  
15 within the region sufficient to house all the population of the region  
16 including all economic segments of the population over the course  
17 of the planning period taking into account net migration into the  
18 region, population growth, household formation and employment  
19 growth; (ii) *identifies a transportation network to service the*  
20 *transportation needs of the region*; (iii) identifies significant  
21 resource areas and significant farmland and excludes from  
22 development areas in the preferred growth scenario the significant  
23 resource areas defined in paragraphs (1)~~and (2)~~, (2), *and (3)* of  
24 subdivision (a) of Section 65086.6 and other adopted natural  
25 resource protection plans, and, ~~pursuant to the requirements of~~  
26 *except as provided in* subparagraph ~~(E)~~ (F), the significant resource  
27 areas defined in paragraphs ~~(3)~~, (4), (5), ~~and (6)~~ (6), *and (7)* of  
28 subdivision (a) of Section 65086.6 and significant farmlands; and  
29 ~~(iii)~~ (iv) will allow the plan to comply with Section 176 of the  
30 federal Clean Air Act (42 U.S.C. Sec. 7506).

31 (B) No later than \_\_\_\_\_, the State Air Resources Board, *working*  
32 *in consultation with the affected transportation agencies and after*  
33 *at least one public workshop*, shall provide each region with  
34 greenhouse gas emission ~~targets~~ *reduction targets from the*  
35 *automobile and light truck sector* for 2020 and ~~2050~~ 2035,  
36 respectively, in order to implement Chapter 488 of the Statutes of  
37 2006.

38 (i) *The board shall update the regional targets consistent with*  
39 *each agency's timeframe for updating its regional transportation*  
40 *plan under federal law until 2050.*



1 (ii) In making these determinations, the board shall consider  
2 greenhouse gas *emission* reductions that will be achieved by  
3 improved vehicle emission standards, changes in fuel consumption,  
4 and other measures it has approved that will reduce greenhouse  
5 gas emissions in the regions; *and prospective measures the board*  
6 *plans to adopt to reduce greenhouse gas emissions from other*  
7 *sources.*

8 (iii) Consistent with data provided by the board, a preferred  
9 growth scenario, *prepared pursuant to subparagraph (A), shall*  
10 *inventory the region's emission of greenhouse gases from the*  
11 *automobile and light truck sector and establish measures to reduce*  
12 *these emissions by an amount consistent with, to the greatest extent*  
13 *feasible, to achieve the targets developed by the board.*

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

16 (D) *If the preferred growth scenario, prepared in compliance*  
17 *with subparagraphs (A) and (B), is unable to reduce greenhouse*  
18 *gas emissions to achieve the targets established by the board, the*  
19 *transportation planning agency shall prepare a supplement to the*  
20 *preferred growth scenario showing how those greenhouse gas*  
21 *emission targets could be achieved through additional*  
22 *transportation investments, land use incentives, or other programs*  
23 *and incentives.*

24 ~~(D)~~

25 (E) A preferred growth scenario does not regulate the use of  
26 land, nor shall it be subject to any state review or approval. Nothing  
27 in a preferred growth scenario shall be interpreted as superseding  
28 or interfering with the exercise of the land use authority of cities  
29 and counties within the region.

30 (F) *On and after January 1, 2009, projects and improvements*  
31 *to be funded shall be consistent with regional transportation plans*  
32 *developed pursuant to Section 65080. Projects programmed for*  
33 *funding on or before December 31, 2011, are not required to be*  
34 *consistent with the preferred growth scenario if they (i) are*  
35 *contained in the 2006 or 2008 Federal Transportation*  
36 *Improvement Program or (ii) are funded pursuant to Chapter*  
37 *12.49 (commencing with Section 8879.20) of Division 1 of Title*  
38 *2.*

39 ~~(E)~~

1 (G) Before identifying either a significant resource area defined  
2 in paragraph ~~(3)~~, (4), (5), ~~or (6)~~ (6), or (7) of subdivision (a) of  
3 Section 65086.6 or significant farmlands as a development area,  
4 the transportation planning agency shall adopt findings that (i) the  
5 area is adjacent to an existing developed area or is within an infill  
6 area as defined in Division 13 (commencing with Section 21000)  
7 of the Public Resources Code; (ii) the area is served by all  
8 necessary utilities; (iii) there is no feasible alternative to identifying  
9 the area as a development area; (iv) the loss of a significant  
10 resource area will be fully mitigated; and (v) the area will be  
11 efficiently utilized for development with a density of at least 10  
12 dwelling units per acre.

13 (3) An action element that describes the programs and actions  
14 necessary to implement the plan and assigns implementation  
15 responsibilities. The action element may describe all projects  
16 proposed for development during the 20-year life of the plan.  
17 Proposed projects shall be consistent with the preferred growth  
18 scenario, *except as provided in subparagraph (F) of paragraph*  
19 *(2)*.

20 The action element shall consider congestion management  
21 programming activities carried out within the region.

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

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

- 39 (i) State highway expansion.  
40 (ii) State highway rehabilitation, maintenance, and operations.

- 1 (iii) Local road and street expansion.
- 2 (iv) Local road and street rehabilitation, maintenance, and
- 3 operation.
- 4 (v) Mass transit, commuter rail, and intercity rail expansion.
- 5 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
- 6 maintenance, and operations.
- 7 (vii) Pedestrian and bicycle facilities.
- 8 (viii) Environmental enhancements and mitigation.
- 9 (ix) Research and planning.
- 10 (x) Other categories.

11 (c) Each transportation planning agency may also include other  
12 factors of local significance as an element of the regional  
13 transportation plan, including, but not limited to, issues of mobility  
14 for specific sectors of the community, including, but not limited  
15 to, senior citizens.

16 (d) Except as otherwise provided in this subdivision, each  
17 transportation planning agency shall adopt and submit, every four  
18 years, an updated regional transportation plan to the California  
19 Transportation Commission and the Department of Transportation.  
20 A transportation planning agency located in a federally designated  
21 air quality attainment area or that does not contain an urbanized  
22 area may at its option adopt and submit a regional transportation  
23 plan every five years. When applicable, the plan shall be consistent  
24 with federal planning and programming requirements and shall  
25 conform to the regional transportation plan guidelines adopted by  
26 the California Transportation Commission. Prior to adoption of  
27 the regional transportation plan, a public hearing shall be held after  
28 the giving of notice of the hearing by publication in the affected  
29 county or counties pursuant to Section 6061.

30 SEC. 8. Section 65080.5 of the Government Code is amended  
31 to read:

32 65080.5. (a) For each area for which a transportation planning  
33 agency is designated under subdivision (c) of Section 29532, or  
34 adopts a resolution pursuant to subdivision (c) of Section 65080,  
35 the Department of Transportation, in cooperation with the  
36 transportation planning agency, and subject to subdivision (e),  
37 shall prepare the regional transportation plan, consistent with the  
38 requirements of Section 65080, and the updating thereto, for that  
39 area and submit it to the governing body or designated policy  
40 committee of the transportation planning agency for adoption.

1 Prior to adoption, a public hearing shall be held, after the giving  
2 of notice of the hearing by publication in the affected county or  
3 counties pursuant to Section 6061. Prior to the adoption of the  
4 regional transportation improvement program by the transportation  
5 planning agency if it prepared the program, the transportation  
6 planning agency shall consider the relationship between the  
7 program and the adopted plan. The adopted plan and program, and  
8 the updating thereto, shall be submitted to the California  
9 Transportation Commission and the department pursuant to  
10 subdivision (b) of Section 65080.

11 (b) In the case of a transportation planning agency designated  
12 under subdivision (c) of Section 29532, the transportation planning  
13 agency may prepare the regional transportation plan for the area  
14 under its jurisdiction pursuant to this chapter, if the transportation  
15 planning agency, prior to July 1, 1978, adopts by resolution a  
16 declaration of intention to do so.

17 (c) In those areas that have a county transportation commission  
18 created pursuant to Section 130050 of the Public Utilities Code,  
19 the multicounty designated transportation planning agency, as  
20 defined in Section 130004 of that code, shall prepare the regional  
21 transportation plan and the regional transportation improvement  
22 program in consultation with the county transportation  
23 commissions.

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

30 (e) If the department prepares or updates a regional  
31 transportation improvement program or regional transportation  
32 plan, or both, pursuant to this section, the state-local share of  
33 funding the preparation or updating of the plan and program shall  
34 be calculated on the same basis as though the preparation or  
35 updating were to be performed by the transportation planning  
36 agency and funded under Sections 99311, 99313, and 99314 of  
37 the Public Utilities Code.

38 SEC. 9. Section 65081.3 of the Government Code is amended  
39 to read:

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

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

(1) Establish geographic boundaries for the proposed corridor.

(2) Complete a traffic survey, including a preliminary recommendation for transportation modal split, which generally describes the traffic and air quality impacts of the proposed corridor.

(3) Consider the widest feasible range of possible transportation facilities that could be located in the corridor and the major environmental impacts they may cause to assist in making the corridor more environmentally sensitive and, in the long term, a more viable site for needed transportation improvements.

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

(1) Rare or endangered plant or animal species.

(2) Historical or cultural sites of major significance.

(3) Wetlands, vernal pools, or other naturally occurring features.

(d) The regional transportation planning agency shall designate a corridor for priority acquisition only if, after a public hearing, it finds that the range of potential transportation facilities to be located in the corridor can be constructed in a manner which will avoid or mitigate significant environmental impacts or values

1 identified in subdivision (c), consistent with the California  
2 Environmental Quality Act and the state and federal Endangered  
3 Species Acts.

4 (e) Notwithstanding any other provision of this section, a  
5 corridor of statewide or regional priority may be designated as part  
6 of the regional transportation plan only if it is consistent with the  
7 preferred growth scenario of the regional transportation plan and  
8 it has previously been specifically defined in the plan required  
9 pursuant to Section 134 and is consistent with the plan required  
10 pursuant to Section 135 of Title 23 of the United States Code.

11 SEC. 10. Section 65082 of the Government Code is amended  
12 to read:

13 65082. (a) (1) A five-year regional transportation improvement  
14 program shall be prepared, adopted, and submitted to the California  
15 Transportation Commission on or before December 15 of each  
16 odd-numbered year thereafter, updated every two years, pursuant  
17 to Sections 65080 and 65080.5 and the guidelines adopted pursuant  
18 to Section 14530.1, to include regional transportation improvement  
19 projects and programs proposed to be funded, in whole or in part,  
20 in the state transportation improvement program. ~~On~~ *Except as*  
21 *provided in subparagraph (F) of paragraph (2) of subdivision (b)*  
22 *of Section 65080, on and after January 1, 2009, projects and*  
23 *improvements to be funded shall be consistent with regional*  
24 *transportation plans, including the preferred growth scenarios,*  
25 *developed pursuant to Section 65080. This section shall not apply*  
26 *to projects programmed for funding on or before December 31,*  
27 *2011, that (A) are contained in the 2006 or 2008 State*  
28 *Transportation Improvement Program or (B) are funded pursuant*  
29 *to Chapter 12.49 (commencing with Section 8879.20) of Division*  
30 *1 of Title 2 (Proposition 1B); plans.*

31 (2) Major projects shall include current costs updated as of  
32 November 1 of the year of submittal and escalated to the  
33 appropriate year, and be listed by relative priority, taking into  
34 account need, delivery milestone dates, and the availability of  
35 funding.

36 (b) Except for those counties that do not prepare a congestion  
37 management program pursuant to Section 65088.3, congestion  
38 management programs adopted pursuant to Section 65089 shall  
39 be incorporated into the regional transportation improvement

1 program submitted to the commission by December 15 of each  
2 odd-numbered year.

3 (c) Local projects not included in a congestion management  
4 program shall not be included in the regional transportation  
5 improvement program. Projects and programs adopted pursuant  
6 to subdivision (a) shall be consistent with the capital improvement  
7 program adopted pursuant to paragraph (5) of subdivision (b) of  
8 Section 65089, and the guidelines adopted pursuant to Section  
9 14530.1.

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

12 (e) Unless a county not containing urbanized areas of over  
13 50,000 population notifies the Department of Transportation by  
14 July 1 that it intends to prepare a regional transportation  
15 improvement program for that county, the department shall, in  
16 consultation with the affected local agencies, prepare the program  
17 for all counties for which it prepares a regional transportation plan.

18 (f) The requirements for incorporating a congestion management  
19 program into a regional transportation improvement program  
20 specified in this section do not apply in those counties that do not  
21 prepare a congestion management program in accordance with  
22 Section 65088.3.

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

26 SEC. 11. Section 65086.6 is added to the Government Code,  
27 to read:

28 65086.6. The following definitions apply to terms used in this  
29 chapter:

30 (a) "Significant resource areas" include (1) all publicly owned  
31 parks and open space; (2) open space or habitat areas protected by  
32 natural community conservation plans, habitat conservation plans,  
33 and other adopted natural resource protection plans; (3) lands  
34 subject to conservation or agricultural easements and lands under  
35 Williamson Act contracts; (4) areas designated for open-space  
36 uses in adopted open-space elements of the local general plan or  
37 by local ordinance; (5) habitat for species identified as candidate,  
38 fully protected, sensitive, or species of special status by local, state,  
39 or federal agencies or protected by the federal Endangered Species  
40 Act of 1973, the California Endangered Species Act, or the Native

1 Plant Protection Act; (6) habitat blocks, linkages, or watershed  
2 units that protect regional populations of native species, including  
3 sensitive, endemic, keystone, and umbrella species, and the  
4 ecological processes that maintain them; and (7) floodplains.

5 (b) “Significant farmland” means farmland that is classified as  
6 prime or unique farmland, or farmland of statewide importance  
7 and is outside all existing spheres of influence as of January 1,  
8 2007.

9 (c) “Consistent with the preferred growth scenario” or  
10 “consistent with the regional transportation plan” means that the  
11 capacity of the transportation projects or improvements does not  
12 exceed that which is necessary to provide reasonable service levels  
13 for the preferred growth scenario.

14 SEC. 12. Section 65088.1 of the Government Code is amended  
15 to read:

16 65088.1. As used in this chapter the following terms have the  
17 following meanings:

18 (a) Unless the context requires otherwise, “regional agency”  
19 means the agency responsible for preparation of the regional  
20 transportation improvement program.

21 (b) Unless the context requires otherwise, “agency” means the  
22 agency responsible for the preparation and adoption of the  
23 congestion management program.

24 (c) “Commission” means the California Transportation  
25 Commission.

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

27 (e) “Local jurisdiction” means a city, a county, or a city and  
28 county.

29 (f) “Parking cash-out program” means an employer-funded  
30 program under which an employer offers to provide a cash  
31 allowance to an employee equivalent to the parking subsidy that  
32 the employer would otherwise pay to provide the employee with  
33 a parking space. “Parking subsidy” means the difference between  
34 the out-of-pocket amount paid by an employer on a regular basis  
35 in order to secure the availability of an employee parking space  
36 not owned by the employer and the price, if any, charged to an  
37 employee for use of that space.

38 A parking cash-out program may include a requirement that  
39 employee participants certify that they will comply with guidelines  
40 established by the employer designed to avoid neighborhood



1 parking problems, with a provision that employees not complying  
2 with the guidelines will no longer be eligible for the parking  
3 cash-out program.

4 (g) “Infill opportunity zone” means a specific area designated  
5 by a city or county, pursuant to subdivision (c) of Section 65088.4,  
6 zoned for new compact residential or mixed use development  
7 within one-third mile of a site with an existing or future rail transit  
8 station, a ferry terminal served by either a bus or rail transit service,  
9 an intersection of at least two major bus routes, or within 300 feet  
10 of a bus rapid transit corridor, in counties with a population over  
11 400,000. An infill opportunity zone shall be consistent with the  
12 preferred growth scenario in the adopted regional transportation  
13 plan. The mixed use development zoning shall consist of three or  
14 more land uses that facilitate significant human interaction in close  
15 proximity, with residential use as the primary land use supported  
16 by other land uses such as office, hotel, health care, hospital,  
17 entertainment, restaurant, retail, and service uses. The transit  
18 service shall have maximum scheduled headways of 15 minutes  
19 for at least 5 hours per day. A qualifying future rail station shall  
20 have broken ground on construction of the station and programmed  
21 operational funds to provide maximum scheduled headways of 15  
22 minutes for at least 5 hours per day.

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

27 (i) “Level of service standard” is a threshold that defines a  
28 deficiency on the congestion management program highway and  
29 roadway system which requires the preparation of a deficiency  
30 plan. It is the intent of the Legislature that the agency shall use all  
31 elements of the program to implement strategies and actions that  
32 avoid the creation of deficiencies and to improve multimodal  
33 mobility.

34 (j) “Multimodal” means the utilization of all available modes  
35 of travel that enhance the movement of people and goods,  
36 including, but not limited to, highway, transit, nonmotorized, and  
37 demand management strategies including, but not limited to,  
38 telecommuting. The availability and practicality of specific  
39 multimodal systems, projects, and strategies may vary by county

1 and region in accordance with the size and complexity of different  
2 urbanized areas.

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

9 (l) “Urbanized area” has the same meaning as is defined in the  
10 1990 federal census for urbanized areas of more than 50,000  
11 population.

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

- 14 (1) Coordination with land use planning.
- 15 (2) Exclusive right-of-way.
- 16 (3) Improved passenger boarding facilities.
- 17 (4) Limited stops.
- 18 (5) Passenger boarding at the same height as the bus.
- 19 (6) Prepaid fares.
- 20 (7) Real-time passenger information.
- 21 (8) Traffic priority at intersections.
- 22 (9) Signal priority.
- 23 (10) Unique vehicles.

24 SEC. 13. Section 65088.4 of the Government Code is amended  
25 to read:

26 65088.4. (a) It is the intent of the Legislature to balance the  
27 need for level of service standards for traffic with the need to build  
28 infill housing and mixed use commercial developments within  
29 walking distance of mass transit facilities, downtowns, and town  
30 centers and to provide greater flexibility to local governments to  
31 balance these sometimes competing needs.

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

- 36 (1) Include these streets and highways under an alternative  
37 areawide level of service standard or multimodal composite or  
38 personal level of service standard that takes into account both of  
39 the following:

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

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

8 (2) Approve a list of flexible level of service mitigation options  
9 that includes roadway expansion and investments in alternate  
10 modes of transportation that may include, but are not limited to,  
11 transit infrastructure, pedestrian infrastructure, and ridesharing,  
12 vanpool, or shuttle programs.

13 (c) The city or county may designate an infill opportunity zone  
14 by adopting a resolution after determining that the infill opportunity  
15 zone is consistent with the general plan, any applicable specific  
16 plan, and any preferred growth scenario adopted pursuant to  
17 Section 65080. A city or county may not designate an infill  
18 opportunity zone after December 31, 2009.

19 (d) The city or county in which the infill opportunity zone is  
20 located shall ensure that a development project shall be completed  
21 within the infill opportunity zone not more than four years after  
22 the date on which the city or county adopted its resolution pursuant  
23 to subdivision (c). If no development project is completed within  
24 an infill opportunity zone by the time limit imposed by this  
25 subdivision, the infill opportunity zone shall automatically  
26 terminate.

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

29  
30 CHAPTER 4.2. IMPLEMENTATION OF THE PREFERRED GROWTH  
31 SCENARIO  
32

33 21155. (a) This chapter applies only within a local jurisdiction  
34 that has amended its general plan so that the land use, circulation,  
35 housing and open space elements of the general plan are consistent  
36 with the preferred growth scenario most recently adopted by the  
37 metropolitan planning organization pursuant to Section 65080 of  
38 the Government Code for the region in which the local government  
39 is located.

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

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

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

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

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

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

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

(b) The project is on an infill site.

(c) *Any applicable mitigation measures approved in the final environmental impact reports on the regional transportation plan or the local general plan amendment have been or will be incorporated into the project.*

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

1 (a) The project complies with all of the following environmental  
2 criteria:

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

7 (2) (A) The site of the project does not contain wetlands or  
8 riparian areas, does not have any significant value as a wildlife  
9 habitat, and the project does not harm any species protected by the  
10 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et  
11 seq.) or by the Native Plant Protection Act (Chapter 10  
12 (commencing with Section 1900) of Division 2 of the Fish and  
13 Game Code), the California Endangered Species Act (Chapter 1.5  
14 (commencing with Section 2050) of Division 3 of the Fish and  
15 Game Code), and the project does not cause the destruction or  
16 removal of any species protected by a local ordinance in effect at  
17 the time the application for the project was deemed complete.

18 (B) For the purposes of this paragraph, “wetlands” has the same  
19 meaning as in the United States Fish and Wildlife Service Manual,  
20 Part 660 FW 2 (June 21, 1993).

21 (C) For the purposes of this paragraph, “riparian areas” means  
22 those areas transitional between terrestrial and aquatic ecosystems  
23 and that are distinguished by gradients in biophysical conditions,  
24 ecological processes, and biota. A riparian area is an area through  
25 which surface and subsurface hydrology connect waterbodies with  
26 their adjacent uplands. A riparian area includes those portions of  
27 terrestrial ecosystems that significantly influence exchanges of  
28 energy and matter with aquatic ecosystems. A riparian area is  
29 adjacent to perennial, intermittent, and ephemeral streams, lakes,  
30 and estuarine-marine shorelines.

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

35 (E) For the purposes of this paragraph, habitat of “significant  
36 value” includes wildlife habitat of national, statewide, regional,  
37 or local importance; habitat for species protected by the federal  
38 Endangered Species Act of 1973, the California Endangered  
39 Species Act, or the Native Plant Protection Act; habitat identified  
40 as candidate, fully protected, sensitive, or species of special status

1 by local, state, or federal agencies; or habitat essential to the  
2 movement of resident or migratory wildlife.

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

6 (4) The site of the project is subject to a preliminary  
7 endangerment assessment prepared by a registered environmental  
8 assessor to determine the existence of any release of a hazardous  
9 substance on the site and to determine the potential for exposure  
10 of future occupants to significant health hazards from any nearby  
11 property or activity.

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

16 (B) If a potential for exposure to significant hazards from  
17 surrounding properties or activities is found to exist, the effects of  
18 the potential exposure shall be mitigated to a level of insignificance  
19 in compliance with state and federal requirements.

20 (5) The project does not have a significant effect on historical  
21 resources pursuant to Section 21084.1.

22 (6) The project site is not subject to any of the following:

23 (A) A wildland fire hazard, as determined by the Department  
24 of Forestry and Fire Protection, unless the applicable general plan  
25 or zoning ordinance contains provisions to mitigate the risk of a  
26 wildland fire hazard.

27 (B) An unusually high risk of fire or explosion from materials  
28 stored or used on nearby properties.

29 (C) Risk of a public health exposure at a level that would exceed  
30 the standards established by any state or federal agency.

31 (D) Seismic risk as a result of being within a delineated  
32 earthquake fault zone, as determined pursuant to Section 2622, or  
33 a seismic hazard zone, as determined pursuant to Section 2696,  
34 unless the applicable general plan or zoning ordinance contains  
35 provisions to mitigate the risk of an earthquake fault or seismic  
36 hazard zone.

37 (E) Landslide hazard, flood plain, flood way, or restriction zone,  
38 unless the applicable general plan or zoning ordinance contains  
39 provisions to mitigate the risk of a landslide or flood.

40 (7) The project site is not located on developed open space.

1 (A) For the purposes of this paragraph, “developed open space”  
2 means land that meets all of the following criteria:

3 (i) Is publicly owned, or financed in whole or in part by public  
4 funds.

5 (ii) Is generally open to, and available for use by, the public.

6 (iii) Is predominantly lacking in structural development other  
7 than structures associated with open spaces, including, but not  
8 limited to, playgrounds, swimming pools, ballfields, enclosed child  
9 play areas, and picnic facilities.

10 (B) For the purposes of this paragraph, “developed open space”  
11 includes land that has been designated for acquisition by a public  
12 agency for developed open space, but does not include lands  
13 acquired by public funds dedicated to the acquisition of land for  
14 housing purposes.

15 (8) The buildings in the project will comply with all green  
16 building standards required by the eligible local jurisdiction.

17 (9) *Any applicable mitigation measures approved in the final*  
18 *environmental impact reports on the regional transportation plan*  
19 *or the local general plan amendment have been or will be*  
20 *incorporated into the project.*

21 (b) The project meets all of the following land use criteria:

22 (1) The project is located on an infill site.

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

27 (3) The site of the project is not more than eight acres in total  
28 area.

29 (4) The project does not contain more than 200 residential units.

30 (5) The project density is at least equal to the applicable density  
31 level provided in subparagraph (B) of paragraph (3) of subdivision  
32 (c) of Section 65583.2 of the Government Code.

33 (6) The project does not result in any loss in the number of  
34 affordable housing units within the project area.

35 (7) The project does not include any single level building that  
36 exceeds 75,000 square feet.

37 (8) The project is consistent with the general plan.

38 (c) The project meets one of the criteria specified in paragraphs  
39 (1) to (4), inclusive:

40 (1) The project meets both of the following:

1 (A) At least 20 percent of the housing will be sold to families  
2 of moderate income, or not less than 10 percent of the housing  
3 will be rented to families of low income, or not less than 5 percent  
4 of the housing is rented to families of very low income.

5 (B) The project developer provides sufficient legal commitments  
6 to the appropriate local agency to ensure the continued availability  
7 and use of the housing units for very low, low-, and  
8 moderate-income households at monthly housing costs determined  
9 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of  
10 the Government Code. Rental units shall be affordable for at least  
11 55 years. Ownership units shall be subject to resale restrictions or  
12 equity sharing requirements for at least 30 years.

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

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

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

21 21155.5. (a) The legislative body of an eligible local  
22 jurisdiction within an urbanized area may adopt traffic mitigation  
23 measures that would apply to all future residential projects. These  
24 measures shall be adopted or amended after a public hearing and  
25 may include requirements for the installation of traffic control  
26 improvements, street or road improvements, and contributions to  
27 road improvement or transit funds, transit passes for future  
28 residents, or other measures that will avoid or mitigate the traffic  
29 impacts of those future residential projects.

30 (b) The traffic mitigation measures adopted pursuant to this  
31 section shall apply to all residential projects of at least 10 units  
32 per acre.

33 (c) (1) A residential project seeking a land use approval is not  
34 required to comply with any additional mitigation measures  
35 required by paragraph (1) or (2) of subdivision (a) of Section  
36 21081, for the traffic impacts of that project on intersections,  
37 streets, highways, freeways, or mass transit, if the eligible local  
38 jurisdiction issuing that land use approval has adopted traffic  
39 mitigation measures in accordance with this section.



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

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

6 SEC. 15. If the Commission on State Mandates determines  
7 that this act contains costs mandated by the state, reimbursement  
8 to local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code.