

AMENDED IN ASSEMBLY JULY 17, 2007

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

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 travel demand models used in the development of regional transportation plans by certain transportation planning 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 *for specified regions* 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 *affected* region with greenhouse gas emission reduction targets from the automobile and light truck sector for 2020 and 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 to the greatest extent feasible to achieve the targets. The bill would require certain transportation planning and programming activities by *affected* regional agencies to be consistent with the preferred growth scenario *contained in the regional transportation plan*, including the programming of transportation projects in the regional transportation improvement program and the implementation of infill opportunity zones *by local agencies*, 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, 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.

(c) Greenhouse gas emissions from vehicles can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve significant additional greenhouse gas reductions from changed land use patterns and improved transportation. Without significant changes in land use and transportation policy, California will not be able to achieve the goals of AB 32.

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

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

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

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

(2) The preparation of the guidelines shall include the formation of an advisory committee that shall include representatives of the regional transportation planning agencies, the department, organizations knowledgeable in the creation and use of travel demand models, local governments, and organizations concerned with the impacts of transportation investments on communities and the environment. The commission shall hold two workshops on the guidelines, one in northern California and one in southern

1 California. The workshops shall be incorporated into regular
2 commission meetings.

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

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

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

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

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

14 (4) Mode splitting that allocates trips between automobile,
15 transit, carpool, and bicycle and pedestrian trips. If a travel demand
16 model is unable to forecast bicycle and pedestrian trips, another
17 means may be used to estimate those trips.

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

19 SEC. 3. Section 14522.2 is added to the Government Code, to
20 read:

21 14522.2. (a) A regional transportation planning agency shall
22 disseminate the methodology, results, and key assumptions of
23 whichever travel demand model it uses in a way that would be
24 useable and understandable to the public.

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

29 SEC. 4. Section 14522.5 is added to the Government Code, to
30 read:

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

37 SEC. 5. Section 65070 of the Government Code is amended
38 to read:

39 65070. (a) The Legislature finds and declares, consistent with
40 Section 65088, that it is in the interest of the State of California to

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

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

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

28 SEC. 6. Section 65074 of the Government Code is amended
29 to read:

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

1 SEC. 7. Section 65080 of the Government Code is amended
2 to read:

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

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

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

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

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

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

37 (i) Single occupant vehicle.

38 (ii) Multiple occupant vehicle or carpool.

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

40 (iv) Walking.

1 (v) Bicycling.

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

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

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

13 (2) (A) ~~A~~ *Within the region under the jurisdiction of each of*
14 *the agencies described in paragraph (1) of subdivision (a) of*
15 *Section 14522.1, a preferred growth scenario, consistent with the*
16 *requirements of Section 450 of Title 23 of, and Section 93 of Title*
17 *40 of, the Code of Federal Regulations, that (i) identifies areas*
18 *within the region sufficient to house all the population of the region*
19 *including all economic segments of the population over the course*
20 *of the planning period taking into account net migration into the*
21 *region, population growth, household formation and employment*
22 *growth; (ii) identifies a transportation network to service the*
23 *transportation needs of the region; (iii) identifies significant*
24 *resource areas and significant farmland and excludes from*
25 *development areas in the preferred growth scenario the significant*
26 *resource areas defined in paragraphs (1), (2), and (3) of subdivision*
27 *(a) of Section 65086.6 and other adopted natural resource*
28 *protection plans, and, except as provided in subparagraph (F), the*
29 *significant resource areas defined in paragraphs (4), (5), (6), and*
30 *(7) of subdivision (a) of Section 65086.6 and significant farmlands;*
31 *and (iv) will allow the plan to comply with Section 176 of the*
32 *federal Clean Air Act (42 U.S.C. Sec. 7506).*

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

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

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

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

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

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

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

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

1 (G) Before identifying either a significant resource area defined
2 in paragraph (4), (5), (6), or (7) of subdivision (a) of Section
3 65086.6 or significant farmlands as a development area, the
4 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 (2).

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

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

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

- 38 (i) State highway expansion.
39 (ii) State highway rehabilitation, maintenance, and operations.
40 (iii) Local road and street expansion.

1 (iv) Local road and street rehabilitation, maintenance, and
2 operation.

3 (v) Mass transit, commuter rail, and intercity rail expansion.

4 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
5 maintenance, and operations.

6 (vii) Pedestrian and bicycle facilities.

7 (viii) Environmental enhancements and mitigation.

8 (ix) Research and planning.

9 (x) Other categories.

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

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

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

31 65080.5. (a) For each area for which a transportation planning
32 agency is designated under subdivision (c) of Section 29532, or
33 adopts a resolution pursuant to subdivision (c) of Section 65080,
34 the Department of Transportation, in cooperation with the
35 transportation planning agency, and subject to subdivision (e),
36 shall prepare the regional transportation plan, consistent with the
37 requirements of Section 65080, and the updating thereto, for that
38 area and submit it to the governing body or designated policy
39 committee of the transportation planning agency for adoption.
40 Prior to adoption, a public hearing shall be held, after the giving

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

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

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

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

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

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

39 65081.3. (a) As a part of its adoption of the regional
40 transportation plan, the designated county transportation

1 commission, regional transportation planning agency, or the
2 Metropolitan Transportation Commission may designate special
3 corridors, which may include, but are not limited to, adopted state
4 highway routes, which, in consultation with the Department of
5 Transportation, cities, counties, and transit operators directly
6 impacted by the corridor, are determined to be of statewide or
7 regional priority for long-term right-of-way preservation.

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

11 (1) Establish geographic boundaries for the proposed corridor.

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

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

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

31 (1) Rare or endangered plant or animal species.

32 (2) Historical or cultural sites of major significance.

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

34 (d) The regional transportation planning agency shall designate
35 a corridor for priority acquisition only if, after a public hearing, it
36 finds that the range of potential transportation facilities to be
37 located in the corridor can be constructed in a manner which will
38 avoid or mitigate significant environmental impacts or values
39 identified in subdivision (c), consistent with the California

1 Environmental Quality Act and the state and federal Endangered
2 Species Acts.

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

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

12 65082. (a) (1) A five-year regional transportation improvement
13 program shall be prepared, adopted, and submitted to the California
14 Transportation Commission on or before December 15 of each
15 odd-numbered year thereafter, updated every two years, pursuant
16 to Sections 65080 and 65080.5 and the guidelines adopted pursuant
17 to Section 14530.1, to include regional transportation improvement
18 projects and programs proposed to be funded, in whole or in part,
19 in the state transportation improvement program. Except as
20 provided in subparagraph (F) of paragraph (2) of subdivision (b)
21 of Section 65080, on and after January 1, 2009, projects and
22 improvements to be funded shall be consistent with regional
23 transportation plans.

24 (2) Major projects shall include current costs updated as of
25 November 1 of the year of submittal and escalated to the
26 appropriate year, and be listed by relative priority, taking into
27 account need, delivery milestone dates, and the availability of
28 funding.

29 (b) Except for those counties that do not prepare a congestion
30 management program pursuant to Section 65088.3, congestion
31 management programs adopted pursuant to Section 65089 shall
32 be incorporated into the regional transportation improvement
33 program submitted to the commission by December 15 of each
34 odd-numbered year.

35 (c) Local projects not included in a congestion management
36 program shall not be included in the regional transportation
37 improvement program. Projects and programs adopted pursuant
38 to subdivision (a) shall be consistent with the capital improvement
39 program adopted pursuant to paragraph (5) of subdivision (b) of

1 Section 65089, and the guidelines adopted pursuant to Section
2 14530.1.

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

5 (e) Unless a county not containing urbanized areas of over
6 50,000 population notifies the Department of Transportation by
7 July 1 that it intends to prepare a regional transportation
8 improvement program for that county, the department shall, in
9 consultation with the affected local agencies, prepare the program
10 for all counties for which it prepares a regional transportation plan.

11 (f) The requirements for incorporating a congestion management
12 program into a regional transportation improvement program
13 specified in this section do not apply in those counties that do not
14 prepare a congestion management program in accordance with
15 Section 65088.3.

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

19 SEC. 11. Section 65086.6 is added to the Government Code,
20 to read:

21 65086.6. The following definitions apply to terms used in this
22 chapter:

23 (a) “Significant resource areas” include (1) all publicly owned
24 parks and open space; (2) open space or habitat areas protected by
25 natural community conservation plans, habitat conservation plans,
26 and other adopted natural resource protection plans; (3) lands
27 subject to conservation or agricultural easements and lands under
28 Williamson Act contracts; (4) areas designated for open-space
29 uses in adopted open-space elements of the local general plan or
30 by local ordinance; (5) habitat for species identified as candidate,
31 fully protected, sensitive, or species of special status by local, state,
32 or federal agencies or protected by the federal Endangered Species
33 Act of 1973, the California Endangered Species Act, or the Native
34 Plant Protection Act; (6) habitat blocks, linkages, or watershed
35 units that protect regional populations of native species, including
36 sensitive, endemic, keystone, and umbrella species, and the
37 ecological processes that maintain them; and (7) floodplains.

38 (b) “Significant farmland” means farmland that is classified as
39 prime or unique farmland, or farmland of statewide importance

1 and is outside all existing spheres of influence as of January 1,
2 2007.

3 (c) “Consistent with the preferred growth scenario” or
4 “consistent with the regional transportation plan” means that the
5 capacity of the transportation projects or improvements does not
6 exceed that which is necessary to provide reasonable service levels
7 for the preferred growth scenario.

8 SEC. 12. Section 65088.1 of the Government Code is amended
9 to read:

10 65088.1. As used in this chapter the following terms have the
11 following meanings:

12 (a) Unless the context requires otherwise, “regional agency”
13 means the agency responsible for preparation of the regional
14 transportation improvement program.

15 (b) Unless the context requires otherwise, “agency” means the
16 agency responsible for the preparation and adoption of the
17 congestion management program.

18 (c) “Commission” means the California Transportation
19 Commission.

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

21 (e) “Local jurisdiction” means a city, a county, or a city and
22 county.

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

32 A parking cash-out program may include a requirement that
33 employee participants certify that they will comply with guidelines
34 established by the employer designed to avoid neighborhood
35 parking problems, with a provision that employees not complying
36 with the guidelines will no longer be eligible for the parking
37 cash-out program.

38 (g) “Infill opportunity zone” means a specific area designated
39 by a city or county, pursuant to subdivision (c) of Section 65088.4,
40 zoned for new compact residential or mixed-use development

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

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

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

28 (j) “Multimodal” means the utilization of all available modes
29 of travel that enhance the movement of people and goods,
30 including, but not limited to, highway, transit, nonmotorized, and
31 demand management strategies including, but not limited to,
32 telecommuting. The availability and practicality of specific
33 multimodal systems, projects, and strategies may vary by county
34 and region in accordance with the size and complexity of different
35 urbanized areas.

36 (k) “Performance measure” is an analytical planning tool that
37 is used to quantitatively evaluate transportation improvements and
38 to assist in determining effective implementation actions,
39 considering all modes and strategies. Use of a performance measure

1 as part of the program does not trigger the requirement for the
2 preparation of deficiency plans.

3 (l) “Urbanized area” has the same meaning as is defined in the
4 1990 federal census for urbanized areas of more than 50,000
5 population.

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

8 (1) Coordination with land use planning.

9 (2) Exclusive right-of-way.

10 (3) Improved passenger boarding facilities.

11 (4) Limited stops.

12 (5) Passenger boarding at the same height as the bus.

13 (6) Prepaid fares.

14 (7) Real-time passenger information.

15 (8) Traffic priority at intersections.

16 (9) Signal priority.

17 (10) Unique vehicles.

18 SEC. 13. Section 65088.4 of the Government Code is amended
19 to read:

20 65088.4. (a) It is the intent of the Legislature to balance the
21 need for level of service standards for traffic with the need to build
22 infill housing and mixed-use commercial developments within
23 walking distance of mass transit facilities, downtowns, and town
24 centers and to provide greater flexibility to local governments to
25 balance these sometimes competing needs.

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

30 (1) Include these streets and highways under an alternative
31 areawide level of service standard or multimodal composite or
32 personal level of service standard that takes into account both of
33 the following:

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

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

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

6 (c) The city or county may designate an infill opportunity zone
7 by adopting a resolution after determining that the infill opportunity
8 zone is consistent with the general plan, any applicable specific
9 plan, and any preferred growth scenario adopted pursuant to
10 Section 65080. A city or county may not designate an infill
11 opportunity zone after December 31, 2009.

12 (d) The city or county in which the infill opportunity zone is
13 located shall ensure that a development project shall be completed
14 within the infill opportunity zone not more than four years after
15 the date on which the city or county adopted its resolution pursuant
16 to subdivision (c). If no development project is completed within
17 an infill opportunity zone by the time limit imposed by this
18 subdivision, the infill opportunity zone shall automatically
19 terminate.

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

22
23 CHAPTER 4.2. IMPLEMENTATION OF THE PREFERRED GROWTH
24 SCENARIO
25

26 21155. (a) This chapter applies only within a local jurisdiction
27 that has amended its general plan so that the land use, circulation,
28 housing and open-space elements of the general plan are consistent
29 with the preferred growth scenario most recently adopted by the
30 metropolitan planning organization pursuant to Section 65080 of
31 the Government Code for the region in which the local government
32 is located.

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

37 (1) The land use and housing elements designate housing, retail,
38 commercial, office, and industrial uses at levels of density and
39 intensity sufficient to accomplish the goals of the preferred growth
40 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 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:

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

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

(2) (A) The site of the project does not contain wetlands or riparian areas, does not have any significant value as a wildlife habitat, and the project does not harm any species protected by the

1 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
2 seq.) or by the Native Plant Protection Act (Chapter 10
3 (commencing with Section 1900) of Division 2 of the Fish and
4 Game Code), the California Endangered Species Act (Chapter 1.5
5 (commencing with Section 2050) of Division 3 of the Fish and
6 Game Code), and the project does not cause the destruction or
7 removal of any species protected by a local ordinance in effect at
8 the time the application for the project was deemed complete.

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

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

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

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

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

37 (4) The site of the project is subject to a preliminary
38 endangerment assessment prepared by a registered environmental
39 assessor to determine the existence of any release of a hazardous
40 substance on the site and to determine the potential for exposure

1 of future occupants to significant health hazards from any nearby
2 property or activity.

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

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

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

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

14 (A) A wildland fire hazard, as determined by the Department
15 of Forestry and Fire Protection, unless the applicable general plan
16 or zoning ordinance contains provisions to mitigate the risk of a
17 wildland fire hazard.

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

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

22 (D) Seismic risk as a result of being within a delineated
23 earthquake fault zone, as determined pursuant to Section 2622, or
24 a seismic hazard zone, as determined pursuant to Section 2696,
25 unless the applicable general plan or zoning ordinance contains
26 provisions to mitigate the risk of an earthquake fault or seismic
27 hazard zone.

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

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

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

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

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

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

1 (B) For the purposes of this paragraph, “developed open space”
2 includes land that has been designated for acquisition by a public
3 agency for developed open space, but does not include lands
4 acquired by public funds dedicated to the acquisition of land for
5 housing purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (A) At least 20 percent of the housing will be sold to families
33 of moderate income, or not less than 10 percent of the housing
34 will be rented to families of low income, or not less than 5 percent
35 of the housing is rented to families of very low income.

36 (B) The project developer provides sufficient legal commitments
37 to the appropriate local agency to ensure the continued availability
38 and use of the housing units for very low, low-, and
39 moderate-income households at monthly housing costs determined
40 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of

1 the Government Code. Rental units shall be affordable for at least
2 55 years. Ownership units shall be subject to resale restrictions or
3 equity sharing requirements for at least 30 years.

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

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

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

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

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