

AMENDED IN ASSEMBLY JANUARY 28, 2008
AMENDED IN ASSEMBLY SEPTEMBER 12, 2007
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 14527, 65080, and 65584.01 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Sections 21061.3 and 21094 of, 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: sustainable communities strategy: 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 July 1, ~~2008~~ 2009, 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 sustainable communities strategy, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks 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 January 1, ~~2009~~ 2010, and to update the regional targets, as specified, until 2050. The bill would require certain transportation planning and programming activities by affected regional agencies to be consistent with the sustainable communities strategy contained in the regional transportation plan, but would state that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy. To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emissions reduction targets, the bill would require affected regional agencies to prepare a supplement to the sustainable communities strategy that would achieve the targets through alternative development patterns or additional transportation measures. The bill would also require an affected regional agency to submit a ~~report~~ *statement* to the California Transportation Commission ~~on~~ *describing* the relationship of each project in the regional transportation improvement program to the regional transportation plan and supplement adopted by the regional agency. The bill would enact other related provisions.

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, housing, and open-space elements of the general plan are consistent with the sustainable communities strategy most recently adopted by the transportation planning agency, pursuant to the requirements specified in the bill, if the project meets certain requirements.

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 a local jurisdiction to adopt traffic mitigation measures for future residential projects that meet specified criteria. The bill would exempt such a residential project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction 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; automobiles
- 5 and light trucks alone contribute *almost* 30 percent. The

1 transportation sector is the single largest contributor of greenhouse
2 gases of any sector.

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

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

18 (d) In addition, automobiles and light trucks account for 50
19 percent of air pollution in California and 70 percent of its
20 consumption of petroleum. Changes in land use and transportation
21 policy will provide significant assistance to California's goals to
22 implement the federal and state Clean Air Acts and to reduce its
23 dependence on petroleum.

24 (e) *Current federal law requires regional transportation*
25 *planning agencies to include a land use allocation in the regional*
26 *transportation plan. Some regions have engaged in a regional*
27 *"blueprint" process to prepare the land use allocation. This*
28 *process has been open and transparent. The Legislature intends,*
29 *by this act, to build upon that successful process and to take an*
30 *evolutionary step forward.*

31 (f) *The California Environmental Quality Act (CEQA) is*
32 *California's premier environmental statute. New provisions of*
33 *CEQA should be enacted so that the statute encourages local*
34 *governments to make land use decisions that will help the state*
35 *achieve its climate goals under AB 32, assist in the achievement*
36 *of state and federal air quality standards, and increase petroleum*
37 *conservation.*

38 (e)

39 (g) Current planning models and analytical techniques used for
40 making transportation infrastructure decisions and for air quality

1 planning should be able to assess the effects of policy choices,
2 such as residential development patterns, expanded transit service
3 and accessibility, the walkability of communities, and the use of
4 economic incentives and disincentives.

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

7 14522.1. (a) (1) The commission, in consultation with the
8 State Air Resources Board, shall adopt guidelines for travel demand
9 models used in the development of regional transportation plans
10 by (A) federally designated metropolitan planning organizations,
11 (B) county transportation agencies or commissions in areas that
12 have been designated as nonattainment areas under the federal
13 Clean Air Act, and (C) in the Counties of Imperial, Los Angeles,
14 Orange, Riverside, San Bernardino, and Ventura, the agency
15 described in Section 130004 of the Public Utilities Code.

16 (2) The preparation of the guidelines shall include the formation
17 of an advisory committee that shall include representatives of the
18 regional transportation planning agencies, the department,
19 organizations knowledgeable in the creation and use of travel
20 demand models, local governments, and organizations concerned
21 with the impacts of transportation investments on communities
22 and the environment. The commission shall hold two workshops
23 on the guidelines, one in northern California and one in southern
24 California. The workshops shall be incorporated into regular
25 commission meetings.

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

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

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

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

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

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

(d) The guidelines shall be adopted on or before July 1, 2008
2009.

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

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

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

SEC. 4. Section 14527 of the Government Code is amended
to read:

14527. (a) After consulting with the department, the regional
transportation planning agencies and county transportation
commissions shall adopt and submit to the commission and the
department, not later than December 15, 2001, and December 15
of each odd-numbered year thereafter, a five-year regional
transportation improvement program in conformance with Section
65082. In counties where a county transportation commission has
been created pursuant to Chapter 2 (commencing with Section
130050) of Division 12 of the Public Utilities Code, that
commission shall adopt and submit the county transportation
improvement program, in conformance with Sections 130303 and
130304 of that code, to the multicounty-designated transportation
planning agency. For each project included in the program, a ~~report~~
statement shall be submitted to the commission ~~on describing~~ the
relationship of the project to the regional transportation plan and
supplement, if any, prepared pursuant to Section 65080. Other
information, including a program for expenditure of local or federal
funds, may be submitted for information purposes with the
program, but only at the discretion of the transportation planning
agencies or the county transportation commissions. As used in this
section, "county transportation commission" includes a
transportation authority created pursuant to Chapter 2 (commencing
with Section 130050) of Division 12 of the Public Utilities Code.

(b) The regional transportation improvement program shall
include all projects to be funded with the county share under
paragraph (2) of subdivision (a) of Section 164 of the Streets and

1 Highways Code. The regional programs shall be limited to projects
2 to be funded in whole or in part with the county share that shall
3 include all projects to receive allocations by the commission during
4 the following five fiscal years. For each project, the total
5 expenditure for each project component and the total amount of
6 commission allocation and the year of allocation shall be stated.
7 The total cost of projects to be funded with the county share shall
8 not exceed the amount specified in the fund estimate made by the
9 commission pursuant to Section 14525.

10 (c) The regional transportation planning agencies and county
11 transportation commissions may recommend projects to improve
12 state highways with the interregional share pursuant to subdivision
13 (b) of Section 164 of the Streets and Highways Code. The
14 recommendations shall be separate and distinct from the regional
15 transportation improvement program. A project recommended for
16 funding pursuant to this subdivision shall constitute a usable
17 segment and shall not be a condition for inclusion of other projects
18 in the regional transportation improvement program.

19 (d) The department may nominate or recommend the inclusion
20 of projects in the regional transportation improvement program to
21 improve state highways with the county share pursuant to
22 paragraph (2) of subdivision (a) and subdivision (e) of Section 164
23 of the Streets and Highways Code. A regional transportation
24 planning agency and a county transportation commission shall
25 have sole authority for determining whether any of the project
26 nominations or recommendations are accepted and included in the
27 regional transportation improvement program adopted and
28 submitted pursuant to this section. This authority provided to a
29 regional transportation planning agency or to a county
30 transportation commission extends only to a project located within
31 its jurisdiction.

32 (e) Major projects shall include current costs updated as of
33 November 1 of the year of submittal and escalated to the
34 appropriate year, and shall be consistent with, and provide the
35 information required in, subdivision (b) of Section 14529.

36 (f) The regional transportation improvement program may not
37 change the project delivery milestone date of any project as shown
38 in the prior adopted state transportation improvement program
39 without the consent of the department or other agency responsible
40 for the project's delivery.

(g) Projects may not be included in the regional transportation improvement program without a complete project study report or, for a project that is not on a state highway, a project study report equivalent or major investment study.

(h) Each transportation planning agency and county transportation commission may request and receive an amount not to exceed 5 percent of its county share for the purposes of project planning, programming, and monitoring.

SEC. 5. Section 65080 of the Government Code is amended to read:

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

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

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

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

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

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

7 (i) Single occupant vehicle.

8 (ii) Multiple occupant vehicle or carpool.

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

10 (iv) Walking.

11 (v) Bicycling.

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

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

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

23 (2) ~~(A)~~—*A sustainable communities strategy prepared as follows:*

24 (A) Within the region under the jurisdiction of each of the
25 agencies described in paragraph (1) of subdivision (a) of Section
26 14522.1, no later than January 1, ~~2009~~ 2010, the State Air
27 Resources Board, working in consultation with the affected
28 transportation planning agencies and after at least one public
29 workshop, shall provide each affected region with greenhouse gas
30 emission reduction targets from the automobile and light truck
31 sector for 2020 and 2035, respectively.

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

35 (ii) In making these determinations, the state board shall consider
36 greenhouse gas emission reductions that will be achieved by
37 improved vehicle emission standards, changes in fuel consumption,
38 and other measures it has approved that will reduce greenhouse
39 gas emissions in the affected regions, and prospective measures

1 the state board plans to adopt to reduce greenhouse gas emissions
2 from other sources.

3 (B) Each agency described in paragraph (1) of subdivision (a)
4 of Section 14522.1 shall prepare a sustainable communities
5 strategy, consistent with the requirements of Part 450 of Title 23
6 of, and Part 93 of Title 40 of, the Code of Federal Regulations,
7 that (i) identifies areas within the region sufficient to house all the
8 population of the region including all economic segments of the
9 population over the course of the planning period taking into
10 account net migration into the region, population growth, household
11 formation and employment growth; (ii) identifies a transportation
12 network to service the transportation needs of the region; (iii) using
13 the best practically available scientific information, identifies
14 significant resource areas and significant farmland; (iv) sets forth
15 a development pattern for the region, a transportation network,
16 and other transportation measures that will reduce the greenhouse
17 gas emissions from automobiles and light trucks to achieve, if
18 there is a feasible way to do so, the targets developed by the board;
19 and (v) will allow the regional transportation plan to comply with
20 Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

21 (C) In—~~a~~ *the* multicounty transportation planning agency
22 *described in Section 130004 of the Public Utilities Code*, a county
23 and the cities within that county may propose the sustainable
24 communities strategy for that county. That sustainable communities
25 strategy may be approved as part of the sustainable communities
26 strategy for the region provided that the strategy for the region
27 complies with the requirements of this section.

28 (D) A sustainable communities strategy shall be consistent with
29 the state planning priorities specified pursuant to Section 65041.1.

30 (E) In preparing a sustainable communities strategy, the
31 transportation planning agency shall consider spheres of influence
32 that have been adopted within its region.

33 (F) Each agency described in paragraph (1) of subdivision (a)
34 of Section 14522.1 *and, within the jurisdiction of the Metropolitan*
35 *Transportation Commission, the Association of Bay Area*
36 *Governments* shall identify the lands for growth in housing and
37 employment in the sustainable communities strategy in accordance
38 with the following priorities:

39 (i) Infill and redevelopment in existing urbanized areas, and
40 any lands within spheres of influence as of July 1, 2007.

1 (ii) Vacant lands or substantially undeveloped lands other than
2 those identified in clause (i) that are adjacent to an existing or
3 reasonably foreseeable planned development area and do not
4 include a significant resource area or significant farmlands.

5 (iii) If it is not feasible to identify lands for all of the projected
6 growth in jobs and housing on lands in clauses (i) and (ii), then it
7 may identify future development on vacant lands or substantially
8 undeveloped lands adjacent to an existing or reasonably foreseeable
9 planned development or within a city sphere of influence that
10 contain significant resource areas as defined in paragraphs (4), (5),
11 (6), or (7) of subdivision (a) of Section 65080.01 or significant
12 farmland to the extent consistent with other provisions of local,
13 state, or federal law.

14 (iv) If it is not feasible to identify lands for all of the projected
15 growth in jobs and housing on lands in clauses (i), (ii), and (iii),
16 then it may identify future development on vacant lands or
17 substantially undeveloped lands adjacent to an existing or
18 reasonably foreseeable planned development or within a city sphere
19 of influence that contain significant resource areas as defined in
20 paragraph (3) of subdivision (a) of Section 65080.01 to the extent
21 consistent with other provisions of local, state, or federal law.

22 (v) If it is not feasible to identify lands for all of the projected
23 growth in jobs and housing on lands in clauses (i), (ii), (iii), and
24 (iv), then it may identify future development on other lands, to the
25 extent consistent with other provisions of local, state, or federal
26 law, but not on significant resource areas defined in paragraph (1)
27 or (2) of subdivision (a) of Section 65080.01.

28 (vi) If the sustainable communities strategy identifies
29 development on lands in clauses (iii), (iv), or (v) it shall describe
30 feasible measures to mitigate the impact of projected development
31 on those lands.

32 (G) Prior to adopting a sustainable communities strategy, the
33 regional transportation planning agency *and, within the jurisdiction*
34 *of the Metropolitan Transportation Commission, the Association*
35 *of Bay Area Governments* shall either (i) find that zoning has been
36 enacted within the region for a five-year supply of the housing
37 need identified in the sustainable communities strategy, or (ii) state
38 with specificity why the development pattern set forth in the
39 sustainable communities strategy is the development pattern that
40 is most likely to occur.

(H) If the sustainable communities strategy, prepared in compliance with subparagraph (B), is unable to reduce greenhouse gas emissions to achieve the targets established by the board, the *regional* transportation planning agency shall prepare a supplement to the sustainable communities strategy that would achieve those greenhouse gas emission targets through alternative development patterns or additional transportation measures. The supplement shall be a separate document and shall not be part of the regional transportation plan.

(I) A sustainable communities strategy does not regulate the use of land, nor shall it be subject to any state review or approval. Nothing in a sustainable communities strategy shall be interpreted as superseding or interfering with the exercise of the land use authority of cities and counties within the region. Nothing in this section requires an agency to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(J) Projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2006, approving a sales tax increase for transportation projects.

(3) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall be consistent with the sustainable communities strategy, except as provided in subparagraph (J) of paragraph (2).

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

(4) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain

1 recommendations for allocation of funds. A county transportation
2 commission created pursuant to Section 130000 of the Public
3 Utilities Code shall be responsible for recommending projects to
4 be funded with regional improvement funds, if the project is
5 consistent with the regional transportation plan. The first five years
6 of the financial element shall be based on the five-year estimate
7 of funds developed pursuant to Section 14524. The financial
8 element may recommend the development of specified new sources
9 of revenue, consistent with the policy element and action element.

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

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

27 (c) Each transportation planning agency may also include other
28 factors of local significance as an element of the regional
29 transportation plan, including, but not limited to, issues of mobility
30 for specific sectors of the community, including, but not limited
31 to, senior citizens.

32 (d) Except as otherwise provided in this subdivision, each
33 transportation planning agency shall adopt and submit, every four
34 years, an updated regional transportation plan to the California
35 Transportation Commission and the Department of Transportation.
36 A transportation planning agency located in a federally designated
37 air quality attainment area or that does not contain an urbanized
38 area may at its option adopt and submit a regional transportation
39 plan every five years. When applicable, the plan shall be consistent
40 with federal planning and programming requirements and shall

1 conform to the regional transportation plan guidelines adopted by
2 the California Transportation Commission. Prior to adoption of
3 the regional transportation plan, a public hearing shall be held after
4 the giving of notice of the hearing by publication in the affected
5 county or counties pursuant to Section 6061.

6 SEC. 6. Section 65080.01 is added to the Government Code,
7 to read:

8 65080.01. The following definitions apply to terms used in
9 Section 65080:

10 (a) “Significant resource areas” include (1) all publicly owned
11 parks and open space; (2) open space or habitat areas protected by
12 natural community conservation plans, habitat conservation plans,
13 and other adopted natural resource protection plans; (3) habitat for
14 species identified as candidate, fully protected, sensitive, or species
15 of special status by local, state, or federal agencies or protected
16 by the federal Endangered Species Act of 1973, the California
17 Endangered Species Act, or the Native Plant Protection Act; (4)
18 lands subject to conservation or agricultural easements for
19 conservation or agricultural purposes by local governments, special
20 districts, or nonprofit 501(c)(3) organizations, and lands under
21 Williamson Act contracts; (5) areas designated for open-space
22 uses in adopted open-space elements of the local general plan or
23 by local ordinance; (6) habitat blocks, linkages, or watershed units
24 that protect regional populations of native species, including
25 sensitive, endemic, keystone, and umbrella species, and the
26 ecological processes that maintain them; and (7) an area subject
27 to flooding where a development project would not, at the time of
28 development in the judgment of the agency, meet the requirements
29 of the National Flood Insurance Program or where the area is
30 subject to more protective provisions of state law or local
31 ordinance.

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

36 (c) “Consistent with the sustainable communities strategy”
37 means that the capacity of the transportation projects or
38 improvements does not exceed that which is necessary to provide
39 reasonable service levels for the existing population and the

1 planned growth of the region as set forth in the sustainable
2 communities strategy.

3 (d) “Feasible” means capable of being accomplished in a
4 successful manner within a reasonable period of time, taking into
5 account economic, environmental, legal, social, and technological
6 factors.

7 SEC. 7. Section 65584.01 of the Government Code is amended
8 to read:

9 65584.01. (a) For the fourth and subsequent revision of the
10 housing element pursuant to Section 65588, the department, in
11 consultation with each council of governments, where applicable,
12 shall determine the existing and projected need for housing for
13 each region in the following manner:

14 (b) The department’s determination shall be based upon
15 population projections produced by the Department of Finance
16 and regional population forecasts used in preparing regional
17 transportation plans, in consultation with each council of
18 governments. If the total regional population forecast for the
19 planning period, developed by the council of governments and
20 used for the preparation of the regional transportation plan, is
21 within a range of 3 percent of the total regional population forecast
22 for the planning period over the same time period by the
23 Department of Finance, then the population forecast developed by
24 the council of governments shall be the basis from which the
25 department determines the existing and projected need for housing
26 in the region. If the difference between the total population growth
27 projected by the council of governments and the total population
28 growth projected for the region by the Department of Finance is
29 greater than 3 percent, then the department and the council of
30 governments shall meet to discuss variances in methodology used
31 for population projections and seek agreement on a population
32 projection for the region to be used as a basis for determining the
33 existing and projected housing need for the region. If no agreement
34 is reached, then the population projection for the region shall be
35 the population projection for the region prepared by the Department
36 of Finance as may be modified by the department as a result of
37 discussions with the council of governments.

38 (c) (1) At least 26 months prior to the scheduled revision
39 pursuant to Section 65588 and prior to developing the existing and
40 projected housing need for a region, the department shall meet and

1 consult with the council of governments regarding the assumptions
2 and methodology to be used by the department to determine the
3 region's housing needs. The council of governments shall provide
4 data assumptions from the council's projections, including, if
5 available, the following data for the region:

6 (A) Anticipated household growth associated with projected
7 population increases.

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

9 (C) The rate of household formation, or headship rates, based
10 on age, gender, ethnicity, or other established demographic
11 measures.

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

15 (E) Other characteristics of the composition of the projected
16 population.

17 (2) The department may accept or reject the information
18 provided by the council of governments or modify its own
19 assumptions or methodology based on this information. After
20 consultation with the council of governments, the department shall
21 make determinations in writing on the assumptions for each of the
22 factors listed in subparagraphs (A) to (E), inclusive, of paragraph
23 (1) and the methodology it shall use and shall provide these
24 determinations to the council of governments.

25 (d) (1) After consultation with the council of governments, the
26 department shall make a determination of the region's existing
27 and projected housing need based upon the assumptions and
28 methodology determined pursuant to subdivision (c). The region's
29 existing and projected housing need shall reflect the achievement
30 of a feasible balance between jobs and housing within the region
31 using the regional employment projections in the applicable
32 regional transportation plan. Within 30 days following notice of
33 the determination from the department, the council of governments
34 may file an objection to the department's determination of the
35 region's existing and projected housing need with the department.

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

38 (A) The department failed to base its determination on the
39 population projection for the region established pursuant to
40 subdivision (b), and shall identify the population projection which

1 the council of governments believes should instead be used for the
2 determination and explain the basis for its rationale.

3 (B) The regional housing need determined by the department
4 is not a reasonable application of the methodology and assumptions
5 determined pursuant to subdivision (c). The objection shall include
6 a proposed alternative determination of its regional housing need
7 based upon the determinations made in subdivision (c), including
8 analysis of why the proposed alternative would be a more
9 reasonable application of the methodology and assumptions
10 determined pursuant to subdivision (c).

11 (3) If a council of governments files an objection pursuant to
12 this subdivision and includes with the objection a proposed
13 alternative determination of its regional housing need, it shall also
14 include documentation of its basis for the alternative determination.
15 Within 45 days of receiving an objection filed pursuant to this
16 section, the department shall consider the objection and make a
17 final written determination of the region's existing and projected
18 housing need that includes an explanation of the information upon
19 which the determination was made.

20 SEC. 8. Section 21061.3 of the Public Resources Code is
21 amended to read:

22 21061.3. "Infill site" means a site in an urbanized area that
23 meets either of the following criteria:

24 (a) The site has not been previously developed for urban uses
25 and both of the following apply:

26 (1) The site is immediately adjacent to parcels that are developed
27 with qualified urban uses, or at least 75 percent of the perimeter
28 of the site adjoins parcels that are developed with qualified urban
29 uses, and the remaining 25 percent of the site adjoins parcels that
30 have previously been developed for qualified urban uses.

31 (2) No parcel within the site has been created within the past
32 10 years unless the parcel was created as a result of the plan of a
33 redevelopment agency.

34 (b) The site has been previously developed for qualified urban
35 uses.

36 SEC. 9. Section 21094 of the Public Resources Code is
37 amended to read:

38 21094. (a) Where a prior environmental impact report has
39 been prepared and certified for a program, plan, policy, or
40 ordinance, the lead agency for a later project that meets the

1 requirements of this section shall examine significant effects of
2 the later project upon the environment by using a tiered
3 environmental impact report, except that the report on the later
4 project need not examine those effects which the lead agency
5 determines were either (1) mitigated or avoided pursuant to
6 paragraph (1) of subdivision (a) of Section 21081 as a result of the
7 prior environmental impact report, or (2) examined at a sufficient
8 level of detail in the prior environmental impact report to enable
9 those effects to be mitigated or avoided by site specific revisions,
10 the imposition of conditions, or by other means in connection with
11 the approval of the later project.

12 (b) This section applies only to a later project which the lead
13 agency determines (1) is consistent with the program, plan, policy,
14 or ordinance for which an environmental impact report has been
15 prepared and certified, (2) is consistent with applicable local land
16 use plans and zoning of the city, county, or city and county in
17 which the later project would be located, and (3) is not subject to
18 Section 21166.

19 (c) For purposes of compliance with this section, an initial study
20 shall be prepared to assist the lead agency in making the
21 determinations required by this section. The initial study shall
22 analyze whether the later project may cause significant effects on
23 the environment that were not examined in the prior environmental
24 impact report.

25 (d) All public agencies which propose to carry out or approve
26 the later project may utilize the prior environmental impact report
27 and the environmental impact report on the later project to fulfill
28 the requirements of Section 21081.

29 (e) When tiering is used pursuant to this section, an
30 environmental impact report prepared for a later project shall refer
31 to the prior environmental impact report and state where a copy
32 of the prior environmental impact report may be examined.

33 (f) If a residential, commercial, or retail project is consistent
34 with a sustainable communities strategy, as modified by a
35 supplement, if any, adopted pursuant to Section 65080 of the
36 Government Code, the environmental analysis of that project may
37 tier the analysis of the climate impacts of greenhouse gas emissions
38 from automobiles and light trucks associated with the project from
39 the environmental impact report prepared for the regional
40 transportation plan. For purposes of this section, “consistent with

1 a sustainable communities strategy” means that the use, density,
2 and intensity of the project are consistent with the use, density,
3 and intensity identified for the project area in the sustainable
4 communities strategy, as modified by a supplement, if any, and
5 any mitigation measures adopted in the environmental impact
6 report on the regional transportation plan have been or will be
7 incorporated into the project. Nothing in this subdivision restricts
8 the use of a tiered environmental impact report as otherwise
9 provided in this division.

10 SEC. 10. Chapter 4.2 (commencing with Section 21155) is
11 added to Division 13 of the Public Resources Code, to read:

12
13 CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE
14 COMMUNITIES STRATEGY
15

16 21155. (a) This chapter applies only within a local jurisdiction
17 that has amended its general plan so that the land use, housing,
18 and open-space elements of the general plan are substantially
19 consistent with the sustainable communities strategy, as modified
20 by a supplement, if any, most recently adopted by the transportation
21 planning agency pursuant to Section 65080 of the Government
22 Code for the region in which the local government is located.

23 (b) For purposes of this section, the land use, housing, and
24 open-space elements of the general plan are substantially consistent
25 with the sustainable communities strategy, as modified by a
26 supplement, if any, if the land use and housing elements designate
27 housing, retail, commercial, office, and industrial uses at levels of
28 density and intensity that are substantially consistent with the uses,
29 density, and intensity identified in the sustainable communities
30 strategy, as modified by a supplement, if any, for those locations
31 and if the open space element designates uses for significant
32 farmlands or significant resource areas that are consistent with the
33 protection of all of the resources of those lands or areas.

34 (c) Notwithstanding subdivision (a), the provisions of Sections
35 21155.1, 21155.2, and 21155.3 may be utilized for projects within
36 a local jurisdiction if the project is shown only in the supplement
37 to the sustainable communities strategy.

38 (d) Notwithstanding subdivision (a) or (c), the provisions of
39 Sections 21155.1, 21155.2, and 21155.3 may not be utilized for
40 projects identified for development on lands referenced in clause

1 (v) of subparagraph (F) of paragraph (2) of subdivision (b) of
2 Section 65080.

3 21155.1. If the legislative body finds, after conducting a public
4 hearing, that a project meets all of the requirements of subdivisions
5 (a) and (b) and one of the requirements of subdivision (c), the
6 project is declared to be a sustainable communities project and
7 shall not be subject to any other provisions of this division.

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

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

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

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

28 (C) For the purposes of this paragraph:

29 (i) “Riparian areas” means those areas transitional between
30 terrestrial and aquatic ecosystems and that are distinguished by
31 gradients in biophysical conditions, ecological processes, and biota.
32 A riparian area is an area through which surface and subsurface
33 hydrology connect waterbodies with their adjacent uplands. A
34 riparian area includes those portions of terrestrial ecosystems that
35 significantly influence exchanges of energy and matter with aquatic
36 ecosystems. A riparian area is adjacent to perennial, intermittent,
37 and ephemeral streams, lakes, and estuarine-marine shorelines.

38 (ii) “Wildlife habitat” means the ecological communities upon
39 which wild animals, birds, plants, fish, amphibians, and
40 invertebrates depend for their conservation and protection.

(iii) Habitat of “significant value” includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

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

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

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

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

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

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

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

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

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

1 (D) Seismic risk as a result of being within a delineated
2 earthquake fault zone, as determined pursuant to Section 2622, or
3 a seismic hazard zone, as determined pursuant to Section 2696,
4 unless the applicable general plan or zoning ordinance contains
5 provisions to mitigate the risk of an earthquake fault or seismic
6 hazard zone.

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

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

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

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

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

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

20 (B) For the purposes of this paragraph, “developed open space”
21 includes land that has been designated for acquisition by a public
22 agency for developed open space, but does not include lands
23 acquired with public funds dedicated to the acquisition of land for
24 housing purposes.

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

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

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

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

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

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

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

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

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

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

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

8 (10) The project is determined not to conflict with nearby
9 operating industrial uses.

10 (c) The project meets at least one of the following four criteria:

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

12 (A) At least 20 percent of the housing will be sold to families
13 of moderate income, or not less than 10 percent of the housing
14 will be rented to families of low income, or not less than 5 percent
15 of the housing is rented to families of very low income.

16 (B) The project developer provides sufficient legal commitments
17 to the appropriate local agency to ensure the continued availability
18 and use of the housing units for very low, low-, and
19 moderate-income households at monthly housing costs determined
20 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of
21 the Government Code. Rental units shall be affordable for at least
22 55 years. Ownership units shall be subject to resale restrictions or
23 equity sharing requirements for at least 30 years.

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

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

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

32 21155.2. (a) A project that meets the following requirements
33 shall be eligible for either the provisions of subdivision (b) or (c):

34 (1) Environmental impact reports have been certified on the
35 regional transportation plan containing the sustainable communities
36 strategy and on the applicable general plan provisions.

37 (2) Any applicable mitigation measures or performance
38 standards or criteria set forth in the prior environmental impact
39 reports, and adopted in findings, have been or will be incorporated
40 into the project.

1 (3) The project density is at least 10 residential units per net
2 acre.

3 (4) At least 75 percent of the total building square footage of
4 the project consists of residential buildings.

5 (b) A project that satisfies the requirements of subdivision (a)
6 may be reviewed through a sustainable communities environmental
7 assessment as follows:

8 (1) An initial study shall be prepared to identify all significant
9 or potentially significant project-specific impacts of the project.
10 The initial study does not need to evaluate any significant
11 cumulative or growth-inducing effects on the environment that
12 were identified and discussed in the environmental impact reports
13 certified for the regional transportation plan and the general plan.

14 (2) The sustainable communities environmental assessment
15 shall contain measures that substantially lessen to a level of
16 insignificance or avoid all project-specific impacts of the project.

17 (3) A draft of the sustainable communities environmental
18 assessment shall be circulated for public comment for a period of
19 not less than 30 days. Notice shall be provided in the same manner
20 as required for an environmental impact report pursuant to Section
21 21092.

22 (4) Prior to acting on the sustainable communities environmental
23 assessment, the lead agency shall consider all comments received.

24 (5) A sustainable communities environmental assessment may
25 be approved by the lead agency after conducting a public hearing,
26 reviewing the comments received, and finding that:

27 (A) All potentially significant or significant project-specific
28 impacts have been identified and analyzed.

29 (B) With respect to each significant project-specific impact on
30 the environment, either of the following apply:

31 (i) Changes or alterations have been required in or incorporated
32 into the project that avoid or substantially lessen the significant
33 effects to a level of insignificance.

34 (ii) Those changes or alterations are within the responsibility
35 and jurisdiction of another public agency and have been, or can
36 and should be, adopted by that other agency.

37 (6) The legislative body of the lead agency shall conduct the
38 public hearing or a planning commission may conduct the public
39 hearing if local ordinances allow a direct appeal of approval of a

1 document prepared pursuant to this division to the legislative body
2 subject to a fee not to exceed five hundred dollars (\$500).

3 (7) The lead agency's approval of a sustainable communities
4 environmental assessment shall be reviewed under the substantial
5 evidence standard.

6 (c) A project that satisfies the requirements of subdivision (a)
7 may be reviewed by an environmental impact report that complies
8 with all of the following:

9 (1) An initial study shall be prepared to identify all the
10 project-specific impacts of the project that may have a significant
11 effect on the environment based upon substantial evidence in light
12 of the whole record. The initial study does not need to evaluate
13 any significant cumulative or growth-inducing effects on the
14 environment that were identified and discussed in the
15 environmental impact reports certified for the regional
16 transportation plan and the general plan.

17 (2) An environmental impact report prepared pursuant to this
18 subdivision need only address the significant or potentially
19 significant impacts on the environment identified pursuant to
20 paragraph (1). It is not required to analyze off-site alternatives to
21 the project. It shall otherwise comply with the requirements of this
22 division.

23 21155.3. (a) The legislative body of a local jurisdiction may
24 adopt traffic mitigation measures that would apply to future
25 projects described in subdivision (b). These measures shall be
26 adopted or amended after a public hearing and may include
27 requirements for the installation of traffic control improvements,
28 street or road improvements, and contributions to road
29 improvement or transit funds, transit passes for future residents,
30 or other measures that will avoid or substantially lessen the traffic
31 impacts of those future projects.

32 (b) The traffic mitigation measures adopted pursuant to this
33 section shall apply to projects where the residential density is at
34 least 10 units per net acre and where at least 75 percent of the total
35 building square footage of the project consists of residential
36 buildings.

37 (c) (1) A project described in subdivision (b) that is seeking a
38 discretionary approval is not required to comply with any additional
39 mitigation measures required by paragraph (1) or (2) of subdivision
40 (a) of Section 21081, for the traffic impacts of that project on

1 intersections, streets, highways, freeways, or mass transit, if the
2 local jurisdiction issuing that discretionary approval has adopted
3 traffic mitigation measures in accordance with this section.

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

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

10 SEC. 11. If the Commission on State Mandates determines
11 that this act contains costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.