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AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 375

Introduced by Senator Steinberg
(Coauthors: Assembly Members Jones and DeSaulnier)

February 21, 2007

An act to amend Sections ~~14527, 65080, and 65584.01~~ 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 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, Section 21061.3 of, to add Section 21159.28 to,~~ 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. *Certain of these agencies are designated under federal law as metropolitan planning organizations.* 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, 2009, to adopt~~ *maintain* guidelines for travel demand models used in the development of regional transportation plans ~~by certain transportation planning entities~~ *metropolitan planning organizations.* 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 of the state with a metropolitan planning organization* ~~to include~~ *adopt* a sustainable communities strategy, *as part of its regional transportation plan,* 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~~ *metropolitan planning organizations,* to provide each affected region with greenhouse gas emission reduction targets ~~from~~ *for* the automobile and light truck sector for 2020 and 2035 by January 1, ~~2010~~ *2011,* and ~~to update the regional targets, as specified, until 2050~~ *appoint a Regional Targets Advisory Committee to recommend factors and methodologies for setting those targets.* The bill would require certain transportation planning and programming activities ~~by affected regional agencies~~ *the metropolitan planning organizations* 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 *process.* To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emissions reduction targets, the bill would require ~~affected regional agencies~~ *metropolitan planning organizations* to prepare ~~a supplement~~ *an alternative planning strategy* to the sustainable communities strategy ~~that would achieve~~ *showing how the targets would be achieved* through alternative development patterns, *infrastructure,* or additional transportation

~~measures or policies. The bill would also require an affected regional agency to submit a statement to the California Transportation Commission describing the relationship of each project in the regional transportation improvement program to the regional transportation plan and supplement adopted by the regional agency~~ *require the State Air Resources Board to review each metropolitan planning organization's sustainable communities strategy and alternative planning strategy to determine whether the strategy, if implemented, would achieve the greenhouse gas emission reduction targets. The bill would require a strategy that is found to be insufficient by the state board to be revised by the metropolitan planning organization, with a minimum requirement that the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy, if implemented, would achieve the targets. The bill would state that the adopted strategies do not regulate the use of land and are not subject to state approval, and that city or county land use policies, including the general plan, are not required to be consistent with the regional transportation plan, which would include the sustainable growth strategy, or the alternative planning strategy. The bill would also require the metropolitan planning organization to hold specified informational meetings in this regard with local elected officials and would require a public participation program with workshops and public hearings for the public, among other things. 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 Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Existing law requires the housing element to identify the existing and projected housing needs of all economic segments of the community.

Existing law requires the housing element, among other things, to contain a program which sets forth a 5-year schedule of actions of the local government to implement the goals and objectives of the housing element. Existing law requires the program to identify actions that will be undertaken to make sites available to accommodate various housing needs, including, in certain cases, the rezoning of sites to accommodate 100% of the need for housing for very low and low-income households.

This bill would extend the 5-year period for the schedule of actions in the program to 8 years, and require each action to have a timetable for implementation. The bill would generally require rezoning of certain

sites to accommodate certain housing needs within specified times, with an opportunity for an extension time in certain cases, and would require the local government to hold a noticed public hearing within 30 days after the deadline for compliance expires. The bill would, under certain conditions, prohibit a local government that fails to complete a required rezoning within the timeframe required from disapproving a housing development project, as defined, or from taking various other actions that would render the project infeasible, and would allow the project applicant or any interested person to bring an action to enforce these provisions. The bill would also allow a court to compel a local government to complete the rezoning within specified times and to impose sanctions on the local government if the court order or judgment is not carried out, and would provide that in certain cases the local government shall bear the burden of proof relative to actions brought to compel compliance with specified deadlines and requirements.

Existing law requires each local government to review and revise its housing element as frequently as appropriate, but not less than every 5 years.

This bill would extend that time period to 8 years, except in certain cases in which the time period would be reduced to 4 years.

The bill would enact other related provisions. Because the bill would impose additional duties on local governments relative to the housing element of the general plan, it would thereby impose a state-mandated local program.

(2)

(3) 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. *exempt from CEQA a transit priority project, as defined, that meets certain requirements and that is declared by the legislative body of a local jurisdiction to be a sustainable communities project. The transit priority project would need to be consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets. The bill would provide for limited CEQA review of various other transit priority projects.*

The bill, with respect to other residential or mixed-use residential projects meeting certain requirements, would exempt the environmental documents for those projects from being required to include certain information regarding growth inducing impacts or impacts from certain vehicle trips.

The bill would also authorize the legislative body of a local jurisdiction to adopt traffic mitigation measures for ~~future residential transit priority projects that meet specified criteria~~. The bill would exempt ~~such a residential transit priority 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 the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.~~

~~(4) 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
6 transportation sector is the single largest contributor of greenhouse
7 gases of any sector.

8 (b) In 2006, the Legislature passed and the Governor signed
9 Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter
10 AB 32), which requires the State of California to reduce its
11 greenhouse gas emissions to 1990 levels no later than 2020. ~~In~~
12 *According to the State Air Resources Board, in 1990, greenhouse*
13 *gas emissions from automobiles and light trucks were*
14 *approximately 73 108 million metric tons, but by 2006 2004 these*
15 *emissions had increased to approximately 100 135 million metric*
16 *tons.*

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

25 (d) In addition, automobiles and light trucks account for 50
26 percent of air pollution in California and 70 percent of its
27 consumption of petroleum. Changes in land use and transportation
28 policy, *based upon established modeling methodology*, will provide
29 significant assistance to California's goals to implement the federal
30 and state Clean Air Acts and to reduce its dependence on
31 petroleum.

(e) Current federal law requires regional transportation planning agencies to include a land use allocation in the regional transportation plan. Some regions have engaged in a regional “blueprint” process to prepare the land use allocation. This process has been open and transparent. The Legislature intends, by this act, to build upon that successful process ~~and to take an evolutionary step forward by requiring metropolitan planning organizations to develop and incorporate a sustainable communities strategy which will be the land use allocation in the regional transportation plan.~~

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

(g) 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.

(h) *The California Transportation Commission has developed guidelines for travel demand models used in the development of regional transportation plans. This act assures the commission’s continued oversight of the guidelines, as the commission may update them as needed from time to time.*

(i) *California local governments need a sustainable source of funding to be able to accommodate patterns of growth consistent with the state’s climate, air quality, and energy conservation goals.*

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~~ *maintain* guidelines for travel demand models used in the development of regional transportation plans by ~~(A) federally designated metropolitan planning organizations, (B) county transportation agencies or commissions 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~~ *Any revision* of the guidelines shall include the formation of an advisory committee that shall include representatives of the ~~regional transportation planning agencies~~ *metropolitan planning organizations*, 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~~ *Before amending the guidelines, the* commission shall hold two workshops on the guidelines, one in northern California and one in southern California. The workshops shall be incorporated into regular commission meetings.

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

(c) The guidelines shall, at a minimum and to the extent practicable, *taking into account such factors as the size and available resources of the metropolitan planning organization*, account for all of the following:

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

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

(3) ~~Induced~~ *Changes in* travel and ~~induced~~ land development ~~resulting likely to result~~ from highway or passenger rail expansion.

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

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

(5) *Speed and frequency, days, and hours of operation of transit service.*

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~~ *models* it uses in a way that would be useable and understandable to the public.

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

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

8 ~~14527. (a) After consulting with the department, the regional~~
9 ~~transportation planning agencies and county transportation~~
10 ~~commissions shall adopt and submit to the commission and the~~
11 ~~department, not later than December 15, 2001, and December 15~~
12 ~~of each odd-numbered year thereafter, a five-year regional~~
13 ~~transportation improvement program in conformance with Section~~
14 ~~65082. In counties where a county transportation commission has~~
15 ~~been created pursuant to Chapter 2 (commencing with Section~~
16 ~~130050) of Division 12 of the Public Utilities Code, that~~
17 ~~commission shall adopt and submit the county transportation~~
18 ~~improvement program, in conformance with Sections 130303 and~~
19 ~~130304 of that code, to the multicounty-designated transportation~~
20 ~~planning agency. For each project included in the program, a~~
21 ~~statement shall be submitted to the commission describing the~~
22 ~~relationship of the project to the regional transportation plan and~~
23 ~~supplement, if any, prepared pursuant to Section 65080. Other~~
24 ~~information, including a program for expenditure of local or federal~~
25 ~~funds, may be submitted for information purposes with the~~
26 ~~program, but only at the discretion of the transportation planning~~
27 ~~agencies or the county transportation commissions. As used in this~~
28 ~~section, "county transportation commission" includes a~~
29 ~~transportation authority created pursuant to Chapter 2 (commencing~~
30 ~~with Section 130050) of Division 12 of the Public Utilities Code.~~

31 ~~(b) The regional transportation improvement program shall~~
32 ~~include all projects to be funded with the county share under~~
33 ~~paragraph (2) of subdivision (a) of Section 164 of the Streets and~~
34 ~~Highways Code. The regional programs shall be limited to projects~~
35 ~~to be funded in whole or in part with the county share that shall~~
36 ~~include all projects to receive allocations by the commission during~~
37 ~~the following five fiscal years. For each project, the total~~
38 ~~expenditure for each project component and the total amount of~~
39 ~~commission allocation and the year of allocation shall be stated.~~
40 ~~The total cost of projects to be funded with the county share shall~~

1 not exceed the amount specified in the fund estimate made by the
2 commission pursuant to Section 14525.

3 ~~(e) The regional transportation planning agencies and county~~
4 ~~transportation commissions may recommend projects to improve~~
5 ~~state highways with the interregional share pursuant to subdivision~~
6 ~~(b) of Section 164 of the Streets and Highways Code. The~~
7 ~~recommendations shall be separate and distinct from the regional~~
8 ~~transportation improvement program. A project recommended for~~
9 ~~funding pursuant to this subdivision shall constitute a usable~~
10 ~~segment and shall not be a condition for inclusion of other projects~~
11 ~~in the regional transportation improvement program.~~

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

25 ~~(e) Major projects shall include current costs updated as of~~
26 ~~November 1 of the year of submittal and escalated to the~~
27 ~~appropriate year, and shall be consistent with, and provide the~~
28 ~~information required in, subdivision (b) of Section 14529.~~

29 ~~(f) The regional transportation improvement program may not~~
30 ~~change the project delivery milestone date of any project as shown~~
31 ~~in the prior adopted state transportation improvement program~~
32 ~~without the consent of the department or other agency responsible~~
33 ~~for the project's delivery.~~

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

38 ~~(h) Each transportation planning agency and county~~
39 ~~transportation commission may request and receive an amount not~~

1 ~~to exceed 5 percent of its county share for the purposes of project~~
2 ~~planning, programming, and monitoring.~~

3 ~~SEC. 5.~~

4 *SEC. 4.* Section 65080 of the Government Code is amended
5 to read:

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

20 (b) The regional transportation plan shall *be an internally*
21 *consistent document and shall* include all of the following:

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

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

34 (B) Measures of road and bridge maintenance and rehabilitation
35 needs, including, but not limited to, roadway pavement and bridge
36 conditions.

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

40 (i) Single occupant vehicle.

1 (ii) Multiple occupant vehicle or carpool.

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

3 (iv) Walking.

4 (v) Bicycling.

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

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

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

16 (2) A sustainable communities strategy prepared *by each*
17 *metropolitan planning organization* as follows:

18 ~~(A) Within the region under the jurisdiction of each of the~~
19 ~~agencies described in paragraph (1) of subdivision (a) of Section~~
20 ~~14522.1, no~~

21 ~~(A) No later than January 1, 2010 2011, the State Air Resources~~
22 ~~Board, working in consultation with the affected transportation~~
23 ~~planning agencies and after at least one public workshop, shall~~
24 ~~Board shall~~ provide each affected region with greenhouse gas
25 emission reduction targets ~~from~~ for the automobile and light truck
26 sector for 2020 and 2035, respectively.

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

30 ~~(ii) In making these determinations, the state board shall consider~~

31 *(i) No later than January 31, 2009, the state board shall appoint*
32 *a Regional Targets Advisory Committee to recommend factors to*
33 *be considered and methodologies to be used for setting greenhouse*
34 *gas emission reduction targets for the affected regions. The*
35 *committee shall be composed of representatives of the metropolitan*
36 *planning organizations, the affected air districts, the League of*
37 *California Cities, the California State Association of Counties,*
38 *and members of the public, including homebuilders, environmental*
39 *organizations, planning organizations, environmental justice*
40 *organizations, affordable housing organizations, and others. The*

1 advisory committee shall transmit a report with its
2 recommendations to the state board no later than December 31,
3 2009. In recommending factors to be considered and methodologies
4 to be used, the advisory committee may consider any relevant
5 issues, including, but not limited to, data needs, modeling
6 techniques, growth forecasts, the impacts of regional jobs-housing
7 balance on interregional travel and greenhouse gas emissions,
8 economic and demographic trends, the magnitude of greenhouse
9 gas reduction benefits from a variety of land use and transportation
10 strategies, and appropriate methods to describe regional targets
11 and to monitor performance in attaining those targets. The state
12 board shall consider the report prior to setting the targets.

13 (ii) Prior to setting the targets for a region, the state board shall
14 exchange technical information with the metropolitan planning
15 organization and the affected air district. This information may
16 include a recommendation for a target for the region. The
17 metropolitan planning organization shall hold at least one public
18 workshop within the region after receipt of the report from the
19 advisory committee.

20 (iii) In establishing these targets, the state board shall take into
21 account greenhouse gas emission reductions that will be achieved
22 by improved vehicle emission standards, changes in fuel
23 consumption composition, and other measures it has approved that
24 will reduce greenhouse gas emissions in the affected regions, and
25 prospective measures the state board plans to adopt to reduce
26 greenhouse gas emissions from other ~~sources~~. greenhouse gas
27 emission sources as that term is defined in subdivision (i) of Section
28 38505 of the Health and Safety Code and consistent with the
29 regulations promulgated pursuant to the California Global
30 Warming Solutions Act of 2006 (Division 12.5 (commencing with
31 Section 38500) of the Health and Safety Code).

32 (iv) The state board shall update the regional greenhouse gas
33 emission reduction targets every eight years consistent with each
34 metropolitan planning organization's timeframe for updating its
35 regional transportation plan under federal law until 2050. The
36 state board may revise the targets every four years based on
37 changes in the factors considered under clause (ii) above. The
38 state board shall exchange technical information with the
39 metropolitan planning organizations, local governments, and

1 *affected air districts and engage in a consultative process with*
2 *public and private stakeholders prior to updating these targets.*

3 (v) *The greenhouse gas emission reduction targets may be*
4 *expressed in gross tons, tons per capita, tons per household, or in*
5 *any other metric deemed appropriate by the state board.*

6 (B) ~~Each agency described in paragraph (1) of subdivision (a)~~
7 ~~of Section 14522.1~~ *metropolitan planning organization shall*
8 *prepare a sustainable communities strategy, consistent with subject*
9 *to the requirements of Part 450 of Title 23 of, and Part 93 of Title*
10 *40 of, the Code of Federal Regulations, that (i) identifies including*
11 *the requirement to utilize the most recent planning assumptions*
12 *considering local general plans and other factors. The sustainable*
13 *communities strategy shall (i) identify the general location of uses,*
14 *residential densities, and building intensities within the region;*
15 *(ii) identify areas within the region sufficient to house all the*
16 *population of the region, including all economic segments of the*
17 *population, over the course of the planning period of the regional*
18 *transportation plan taking into account net migration into the*
19 *region, population growth, household formation and employment*
20 *growth; (ii) identifies (iii) identify areas within the region sufficient*
21 *to house an eight-year projection of the regional housing need for*
22 *the region pursuant to Section 65584; (iv) identify a transportation*
23 *network to service the transportation needs of the region; (iii) using*
24 *(v) gather and consider the best practically available scientific*
25 *information, identifies significant resource areas and significant*
26 *farmland; (iv) sets forth a regarding resource areas and farmland*
27 *in the region as defined in subdivisions (a) and (b) of Section*
28 *65080.01; (vi) set forth a forecasted development pattern for the*
29 *region, a which, when integrated with the transportation network,*
30 *and other transportation measures that and policies, will reduce*
31 *the greenhouse gas emissions from automobiles and light trucks*
32 *to achieve, if there is a feasible way to do so, the greenhouse gas*
33 *emission reduction targets developed by the approved by the state*
34 *board; and (v) (vii) will allow the regional transportation plan to*
35 *comply with Section 176 of the federal Clean Air Act (42 U.S.C.*
36 *Sec. 7506).*

37 (C) *In the region served by the multicounty transportation*
38 *planning agency described in Section 130004 of the Public Utilities*
39 *Code, a county and the cities within that county may propose the*
40 *sustainable communities strategy for that county. That sustainable*

1 communities strategy may be approved by the metropolitan
2 planning organization as part of the sustainable communities
3 strategy for the region provided that the strategy for the region
4 complies with the requirements of this section.

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

7 (D) Each metropolitan planning organization shall conduct at
8 least two informational meetings in each county within the region
9 for members of the board of supervisors and city councils on the
10 sustainable communities strategy and alternative planning strategy,
11 if any. The metropolitan planning organization may conduct only
12 one informational meeting if it is attended by representatives of
13 the county board of supervisors and city council members
14 representing a majority of the cities representing a majority of the
15 population in the incorporated areas of that county. Notice of the
16 meeting shall be sent to the clerk of the board of supervisors and
17 to each city clerk. The purpose of the meeting shall be to present
18 a draft of the sustainable communities strategy to the members of
19 the board of supervisors and the city council members in that
20 county and to solicit and consider their input and recommendations
21 and input and recommendations from interested members of the
22 public, including representatives of transportation agencies and
23 transit agencies.

24 (E) Each metropolitan planning organization shall adopt a
25 public participation plan, for development of the sustainable
26 communities strategy and an alternative planning strategy, if any,
27 that includes all of the following:

28 (i) Outreach efforts to encourage the active participation of a
29 broad range of stakeholder groups in the planning process,
30 consistent with the agency's adopted Federal Public Participation
31 Plan, including, but not limited to, affordable housing advocates,
32 transportation advocates, neighborhood and community groups,
33 environmental advocates, home builder representatives,
34 broad-based business organizations, landowners, commercial
35 property interests, and homeowner associations.

36 (ii) Workshops throughout the region to provide the public with
37 the information and tools necessary to provide a clear
38 understanding of the issues and policy choices. At least one
39 workshop shall be held in each county in the region. For counties
40 with a population greater than 500,000, at least three workshops

1 shall be held. Each workshop, to the extent practicable, shall
2 include urban simulation computer modeling to create visual
3 representations of the sustainable communities strategy and the
4 alternative planning strategy.

5 (iii) Preparation and circulation of a draft sustainable
6 communities strategy and, if one is prepared, an alternative
7 planning strategy, not less than 55 days before adoption of a final
8 strategy.

9 (iv) At least three public hearings on the draft sustainable
10 communities strategy and alternative planning strategy, if any. To
11 the maximum extent feasible, the hearings shall be in different
12 parts of the region to maximize the opportunity for participation
13 by members of the public throughout the region.

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

16 ~~(E)~~

17 (F) In preparing a sustainable communities strategy, the
18 ~~transportation planning agency metropolitan planning organization~~
19 shall consider spheres of influence that have been adopted by the
20 local agency formation commissions within its region.

21 ~~(F) Each agency described in paragraph (1) of subdivision (a)~~
22 ~~of Section 14522.1 and, within the jurisdiction of the Metropolitan~~
23 ~~Transportation Commission, the Association of Bay Area~~
24 ~~Governments shall identify the lands for growth in housing and~~
25 ~~employment in the sustainable communities strategy in accordance~~
26 ~~with the following priorities:~~

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

29 ~~(ii) Vacant lands or substantially undeveloped lands other than~~
30 ~~those identified in clause (i) that are adjacent to an existing or~~
31 ~~reasonably foreseeable planned development area and do not~~
32 ~~include a significant resource area or significant farmlands.~~

33 ~~(iii) If it is not feasible to identify lands for all of the projected~~
34 ~~growth in jobs and housing on lands in clauses (i) and (ii), then it~~
35 ~~may identify future development on vacant lands or substantially~~
36 ~~undeveloped lands adjacent to an existing or reasonably foreseeable~~
37 ~~planned development or within a city sphere of influence that~~
38 ~~contain significant resource areas as defined in paragraphs (4), (5),~~
39 ~~(6), or (7) of subdivision (a) of Section 65080.01 or significant~~

1 farmland to the extent consistent with other provisions of local,
2 state, or federal law.

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

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

17 (vi) If the sustainable communities strategy identifies
18 development on lands in clauses (iii), (iv), or (v) it shall describe
19 feasible measures to mitigate the impact of projected development
20 on those lands.

21 (G) Prior to adopting a sustainable communities strategy, the
22 regional transportation planning agency and, within the jurisdiction
23 of the Metropolitan Transportation Commission, the Association
24 of Bay Area Governments shall either (i) find that zoning has been
25 enacted within the region for a five-year supply of the housing
26 need identified in the sustainable communities strategy, or (ii) state
27 with specificity why the development pattern set forth in the
28 sustainable communities strategy is the development pattern that
29 is most likely to occur. *metropolitan planning organization shall*
30 *quantify the reduction in greenhouse gas emissions projected to*
31 *be achieved by the sustainable communities strategy and set forth*
32 *the difference, if any, between the amount of that reduction and*
33 *the target for the region established by the state board.*

34 (H) If the sustainable communities strategy, prepared in
35 compliance with subparagraph (B), is unable to reduce greenhouse
36 gas emissions to achieve the *greenhouse gas emission reduction*
37 targets established by the *state* board, the regional transportation
38 planning agency shall prepare a supplement to the sustainable
39 communities strategy that would achieve those greenhouse gas
40 emission targets through alternative development patterns or

1 ~~additional transportation measures. The supplement shall be a~~
2 ~~separate document and shall not be part of the regional~~
3 ~~transportation plan. metropolitan planning organization shall~~
4 *prepare an alternative planning strategy to the sustainable*
5 *communities strategy showing how those greenhouse gas emission*
6 *targets would be achieved through alternative development*
7 *patterns, infrastructure, or additional transportation measures or*
8 *policies. The alternative planning strategy shall be a separate*
9 *document from the regional transportation plan, but it may be*
10 *adopted concurrently with the regional transportation plan. In*
11 *preparing the alternative planning strategy, the metropolitan*
12 *planning organization:*

13 *(i) Shall work in collaboration with a broad range of public*
14 *and private stakeholders, including member cities and counties,*
15 *relevant interest groups, and the general public.*

16 *(ii) Shall identify the principal impediments to achieving the*
17 *targets within the sustainable communities strategy.*

18 *(iii) May include an alternative development pattern for the*
19 *region pursuant to subparagraphs (B) to (F), inclusive.*

20 *(iv) Shall describe how the greenhouse gas emission reduction*
21 *targets would be achieved by the alternative planning strategy,*
22 *and why the measures and policies in the alternative planning*
23 *strategy are the most practicable choices for achievement of the*
24 *greenhouse gas emission reduction targets.*

25 *(v) An alternative development pattern set forth in the alternative*
26 *planning strategy shall comply with Part 450 of Title 23 of, and*
27 *Part 93 of Title 40 of, the Code of Federal Regulations, except to*
28 *the extent that compliance will prevent achievement of the*
29 *greenhouse gas emission reduction targets approved by the state*
30 *board.*

31 *(vi) For purposes of the California Environmental Quality Act*
32 *(Division 13 (commencing with Section 21000) of the Public*
33 *Resources Code), an alternative planning strategy shall not*
34 *constitute a land use plan, policy, or regulation, and the*
35 *inconsistency of a project with an alternative planning strategy*
36 *shall not be a consideration in determining whether a project may*
37 *have an environmental effect.*

38 *(I) (i) Prior to starting the public participation process adopted*
39 *pursuant to subparagraph (E) of paragraph (2) of subdivision (b)*
40 *of Section 65080, the metropolitan planning organization shall*

1 submit a description to the state board of the technical methodology
2 it intends to use to estimate the greenhouse gas emissions from its
3 sustainable communities strategy and, if appropriate, its alternative
4 planning strategy. The state board shall respond to the
5 metropolitan planning organization in a timely manner with written
6 comments about the technical methodology, including specifically
7 describing any aspects of that methodology it concludes will not
8 yield accurate estimates of greenhouse gas emissions, and
9 suggested remedies. The metropolitan planning organization is
10 encouraged to work with the state board until the state board
11 concludes that the technical methodology operates accurately.

12 (ii) After adoption, a metropolitan planning organization shall
13 submit a sustainable communities strategy or an alternative
14 planning strategy, if one has been adopted, to the state board for
15 review, including the quantification of the greenhouse gas emission
16 reductions the plan would achieve and a description of the
17 technical methodology used to obtain that result. Review by the
18 state board shall be limited to acceptance or rejection of the
19 metropolitan planning organization's determination that the
20 strategy submitted would, if implemented, achieve the greenhouse
21 gas emission reduction targets established by the state board. The
22 state board shall complete its review within 60 days.

23 (iii) If the state board determines that the strategy submitted
24 would not, if implemented, achieve the greenhouse gas emission
25 reduction targets, the metropolitan planning organization shall
26 revise its strategy or adopt an alternative planning strategy, if not
27 previously adopted, and submit the strategy for review pursuant
28 to clause (ii). At a minimum, the metropolitan planning
29 organization must obtain state board acceptance that an alternative
30 planning strategy would, if implemented, achieve the greenhouse
31 gas emission reduction targets established for that region by the
32 state board.

33 ~~(I) A~~

34 (J) Neither a sustainable communities strategy ~~does not regulate~~
35 nor an alternative planning strategy regulates the use of land, ~~nor~~
36 ~~shall it~~ nor, except as provided by subparagraph (I), shall either
37 one be subject to any ~~state approval~~ state approval. Nothing in a
38 sustainable communities strategy shall be interpreted as
39 superseding ~~or interfering with~~ the exercise of the land use
40 authority of cities and counties within the region. *Nothing in this*

1 *section shall be interpreted to authorize the abrogation of any*
2 *vested right whether created by statute or by common law. Nothing*
3 *in this section shall require a city's or county's land use policies*
4 *and regulations, including its general plan, to be consistent with*
5 *the regional transportation plan or an alternative planning*
6 *strategy. Nothing in this section requires an agency a metropolitan*
7 *planning organization to approve a sustainable communities*
8 *strategy that would be inconsistent with Part 450 of Title 23 of, or*
9 *Part 93 of Title 40 of, the Code of Federal Regulations and any*
10 *administrative guidance under those regulations. Nothing in this*
11 *section relieves a public or private entity or any person from*
12 *compliance with any other local, state, or federal law.*

13 ~~(J) Projects programmed for funding on or before December~~
14 ~~31, 2011, are not required to be consistent with the sustainable~~
15 ~~communities strategy~~

16 *(K) Nothing in this section requires projects programmed for*
17 *funding on or before December 31, 2011, to be subject to the*
18 *provisions of subparagraph (B) if they (i) are contained in the*
19 *2007 or 2009 Federal Statewide Transportation Improvement*
20 *Program, (ii) are funded pursuant to Chapter 12.49 (commencing*
21 *with Section 8879.20) of Division 1 of Title 2, or (iii) were*
22 *specifically listed in a ballot measure prior to December 31, 2006*
23 *2008, approving a sales tax increase for transportation projects.*
24 *Nothing in this section shall require a transportation sales tax*
25 *authority to change the funding allocations approved by the voters*
26 *for categories of transportation projects in a sales tax measure*
27 *adopted prior to December 31, 2010. For purposes of this*
28 *subparagraph, a transportation sales tax authority is a district,*
29 *as defined in Section 7252 of the Revenue and Taxation Code, that*
30 *is authorized to impose a sales tax for transportation purposes.*

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

38 ~~The~~ *The action element shall consider congestion management*
39 *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 recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

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

- (i) State highway expansion.
- (ii) State highway rehabilitation, maintenance, and operations.
- (iii) Local road and street expansion.
- (iv) Local road and street rehabilitation, maintenance, and operation.
- (v) Mass transit, commuter rail, and intercity rail expansion.
- (vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.
- (vii) Pedestrian and bicycle facilities.
- (viii) Environmental enhancements and mitigation.
- (ix) Research and planning.
- (x) Other categories.

(C) *The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or farmland, as defined Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system, farm to market, and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for service responsibilities for the residents in counties that contribute towards the greenhouse gas emission*

1 *reduction targets by implementing policies for growth to occur*
2 *within their cities.*

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

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

22 ~~SEC. 6.~~

23 *SEC. 5.* Section 65080.01 is added to the Government Code,
24 to read:

25 65080.01. The following definitions apply to terms used in
26 Section 65080:

27 (a) ~~“Significant resource—~~“*Resource areas*” include (1) all
28 publicly owned parks and open space; (2) open space or habitat
29 areas protected by natural community conservation plans, habitat
30 conservation plans, and other adopted natural resource protection
31 plans; (3) habitat for species identified as candidate, fully protected,
32 sensitive, or species of special status by local, state, or federal
33 agencies or protected by the federal Endangered Species Act of
34 1973, the California Endangered Species Act, or the Native Plant
35 Protection Act; (4) lands subject to conservation or agricultural
36 easements for conservation or agricultural purposes by local
37 governments, special districts, or nonprofit 501(c)(3) organizations,
38 *areas of the state designated by the State Mining and Geology*
39 *Board as areas of statewide or regional significance pursuant to*
40 *Section 2790 of the Public Resources Code*, and lands under

Williamson Act contracts; (5) areas designated for open-space uses in adopted open-space elements of the local general plan or by local ordinance; (6) ~~habitat blocks, linkages, or watershed units that protect regional populations of native species, including sensitive, endemic, keystone, and umbrella species, and the ecological processes that maintain them~~ *areas containing biological resources as described in Appendix G of the CEQA Guidelines that may be significantly affected by the sustainable communities strategy or the alternative planning strategy*; and (7) an area subject to flooding where a development project would not, at the time of development in the judgment of the agency, meet the requirements of the National Flood Insurance Program or where the area is subject to more protective provisions of state law or local ordinance.

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

(c) ~~“Consistent with the sustainable communities strategy”~~ means that the capacity of the transportation projects or improvements does not exceed that which is necessary to provide reasonable service levels for the existing population and the planned growth of the region as set forth in the sustainable communities strategy. ~~outside all existing city spheres of influence or city limits as of January 1, 2008, and is one of the following:~~

(1) *Classified as prime or unique farmland or farmland of statewide importance.*

(2) *Farmland classified by a local agency in its general plan that meets or exceeds the standards for prime or unique farmland or farmland of statewide importance.*

(d)

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

SEC. 6. *Section 65400 of the Government Code is amended to read:*

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). *Prior to adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at a public meeting where members of the public shall be allowed to provide oral testimony and written comments.*

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) For the report to be filed during the 2006 calendar year, the planning agency may provide the report required pursuant to paragraph (2) of subdivision (a) by October 1, 2006.

(c) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph

(2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 7. Section 65583 of the Government Code is amended to read:

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

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that

1 qualify as extremely low income households. The local agency
2 may either use available census data to calculate the percentage
3 of very low income households that qualify as extremely low
4 income households or presume that 50 percent of the very low
5 income households qualify as extremely low income households.
6 The number of extremely low income households and very low
7 income households shall equal the jurisdiction's allocation of very
8 low income households pursuant to Section 65584.

9 (2) An analysis and documentation of household characteristics,
10 including level of payment compared to ability to pay, housing
11 characteristics, including overcrowding, and housing stock
12 condition.

13 (3) An inventory of land suitable for residential development,
14 including vacant sites and sites having potential for redevelopment,
15 and an analysis of the relationship of zoning and public facilities
16 and services to these sites.

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

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

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

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

7 (iv) The provision of onsite management.

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

10 (vi) The length of stay.

11 (vii) Lighting.

12 (viii) Security during hours that the emergency shelter is in
13 operation.

14 (B) The permit processing, development, and management
15 standards applied under this paragraph shall not be deemed to be
16 discretionary acts within the meaning of the California
17 Environmental Quality Act (Division 13 (commencing with Section
18 21000) of the Public Resources Code).

19 (C) A local government that can demonstrate to the satisfaction
20 of the department the existence of one or more emergency shelters
21 either within its jurisdiction or pursuant to a multijurisdictional
22 agreement that can accommodate that jurisdiction's need for
23 emergency shelter identified in paragraph (7) may comply with
24 the zoning requirements of subparagraph (A) by identifying a zone
25 or zones where new emergency shelters are allowed with a
26 conditional use permit.

27 (D) A local government with an existing ordinance or ordinances
28 that comply with this paragraph shall not be required to take
29 additional action to identify zones for emergency shelters. The
30 housing element must only describe how existing ordinances,
31 policies, and standards are consistent with the requirements of this
32 paragraph.

33 (5) An analysis of potential and actual governmental constraints
34 upon the maintenance, improvement, or development of housing
35 for all income levels, including the types of housing identified in
36 paragraph (1) of subdivision (c), and for persons with disabilities
37 as identified in the analysis pursuant to paragraph ~~(6)~~ (7), including
38 land use controls, building codes and their enforcement, site
39 improvements, fees and other exactions required of developers,
40 and local processing and permit procedures. The analysis shall

1 also demonstrate local efforts to remove governmental constraints
2 that hinder the locality from meeting its share of the regional
3 housing need in accordance with Section 65584 and from meeting
4 the need for housing for persons with disabilities, supportive
5 housing, transitional housing, and emergency shelters identified
6 pursuant to paragraph (6). Transitional housing and supportive
7 housing shall be considered a residential use of property, and shall
8 be subject only to those restrictions that apply to other residential
9 dwellings of the same type in the same zone.

10 (6) An analysis of potential and actual nongovernmental
11 constraints upon the maintenance, improvement, or development
12 of housing for all income levels, including the availability of
13 financing, the price of land, and the cost of construction.

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

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

26 (9) An analysis of existing assisted housing developments that
27 are eligible to change from low-income housing uses during the
28 next 10 years due to termination of subsidy contracts, mortgage
29 prepayment, or expiration of restrictions on use. "Assisted housing
30 developments," for the purpose of this section, shall mean
31 multifamily rental housing that receives governmental assistance
32 under federal programs listed in subdivision (a) of Section
33 65863.10, state and local multifamily revenue bond programs,
34 local redevelopment programs, the federal Community
35 Development Block Grant Program, or local in-lieu fees. "Assisted
36 housing developments" shall also include multifamily rental units
37 that were developed pursuant to a local inclusionary housing
38 program or used to qualify for a density bonus pursuant to Section
39 65916.

1 (A) The analysis shall include a listing of each development by
2 project name and address, the type of governmental assistance
3 received, the earliest possible date of change from low-income use
4 and the total number of elderly and nonelderly units that could be
5 lost from the locality's low-income housing stock in each year
6 during the 10-year period. For purposes of state and federally
7 funded projects, the analysis required by this subparagraph need
8 only contain information available on a statewide basis.

9 (B) The analysis shall estimate the total cost of producing new
10 rental housing that is comparable in size and rent levels, to replace
11 the units that could change from low-income use, and an estimated
12 cost of preserving the assisted housing developments. This cost
13 analysis for replacement housing may be done aggregately for
14 each five-year period and does not have to contain a
15 project-by-project cost estimate.

16 (C) The analysis shall identify public and private nonprofit
17 corporations known to the local government which have legal and
18 managerial capacity to acquire and manage these housing
19 developments.

20 (D) The analysis shall identify and consider the use of all federal,
21 state, and local financing and subsidy programs which can be used
22 to preserve, for lower income households, the assisted housing
23 developments, identified in this paragraph, including, but not
24 limited to, federal Community Development Block Grant Program
25 funds, tax increment funds received by a redevelopment agency
26 of the community, and administrative fees received by a housing
27 authority operating within the community. In considering the use
28 of these financing and subsidy programs, the analysis shall identify
29 the amounts of funds under each available program which have
30 not been legally obligated for other purposes and which could be
31 available for use in preserving assisted housing developments.

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

35 (2) It is recognized that the total housing needs identified
36 pursuant to subdivision (a) may exceed available resources and
37 the community's ability to satisfy this need within the content of
38 the general plan requirements outlined in Article 5 (commencing
39 with Section 65300). Under these circumstances, the quantified
40 objectives need not be identical to the total housing needs. The

1 quantified objectives shall establish the maximum number of
2 housing units by income category, including extremely low income,
3 that can be constructed, rehabilitated, and conserved over a
4 five-year time period.

5 (c) A program which sets forth ~~a five-year~~ *an eight-year*
6 *schedule of actions, each with a timeline for implementation, which*
7 *may recognize that certain programs are ongoing, such that there*
8 *will be beneficial impacts of the programs within the planning*
9 *period, that the local government is undertaking or intends to will*
10 undertake to implement the policies and achieve the goals and
11 objectives of the housing element through the administration of
12 land use and development controls, the provision of regulatory
13 concessions and incentives, and the utilization of appropriate
14 federal and state financing and subsidy programs when available
15 and the utilization of moneys in a low- and moderate-income
16 housing fund of an agency if the locality has established a
17 redevelopment project area pursuant to the Community
18 Redevelopment Law (Division 24 (commencing with Section
19 33000) of the Health and Safety Code). In order to make adequate
20 provision for the housing needs of all economic segments of the
21 community, the program shall do all of the following:

22 (1) Identify actions that will be taken to make sites available
23 during the planning period of the general plan with appropriate
24 zoning and development standards and with services and facilities
25 to accommodate that portion of the city's or county's share of the
26 regional housing need for each income level that could not be
27 accommodated on sites identified in the inventory completed
28 pursuant to paragraph (3) of subdivision (a) without rezoning, and
29 to comply with the requirements of Section 65584.09. Sites shall
30 be identified as needed to facilitate and encourage the development
31 of a variety of types of housing for all income levels, including
32 multifamily rental housing, factory-built housing, mobilehomes,
33 housing for agricultural employees, supportive housing,
34 single-room occupancy units, emergency shelters, and transitional
35 housing.

36 (A) Where the inventory of sites, pursuant to paragraph (3) of
37 subdivision (a), does not identify adequate sites to accommodate
38 the need for groups of all household income levels pursuant to
39 Section 65584, the program shall identify sites that can be
40 developed for housing within the planning period pursuant to

1 subdivision (h) of Section 65583.2. *The identification of sites shall*
2 *include all components specified in subdivision (b) of Section*
3 *65583.2. Rezoning of those sites, including adoption of minimum*
4 *density and development standards, shall be completed no later*
5 *than three years after either the date the housing element is*
6 *adopted pursuant to subdivision (f) of Section 65585 or the date*
7 *that is 90 days after receipt of comments from the department*
8 *pursuant to subdivision (b) of Section 65585, whichever is earlier;*
9 *unless this deadline is extended pursuant to subdivision (f). Within*
10 *30 days following the deadline established in this subparagraph,*
11 *the local government shall hold a noticed public hearing to identify*
12 *and discuss the actions the local government has taken to comply*
13 *with the requirements of this subparagraph.*

14 (B) Where the inventory of sites pursuant to paragraph (3) of
15 subdivision (a) does not identify adequate sites to accommodate
16 the need for farmworker housing, the program shall provide for
17 sufficient sites to meet the need with zoning that permits
18 farmworker housing use by right, including density and
19 development standards that could accommodate and facilitate the
20 feasibility of the development of farmworker housing for low- and
21 very low income households.

22 (2) Assist in the development of adequate housing to meet the
23 needs of extremely low, very low, low-, and moderate-income
24 households.

25 (3) Address and, where appropriate and legally possible, remove
26 governmental constraints to the maintenance, improvement, and
27 development of housing, including housing for all income levels
28 and housing for persons with disabilities. The program shall remove
29 constraints to, and provide reasonable accommodations for housing
30 designed for, intended for occupancy by, or with supportive
31 services for, persons with disabilities.

32 (4) Conserve and improve the condition of the existing
33 affordable housing stock, which may include addressing ways to
34 mitigate the loss of dwelling units demolished by public or private
35 action.

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

39 (6) Preserve for lower income households the assisted housing
40 developments identified pursuant to paragraph (9) of subdivision

1 (a). The program for preservation of the assisted housing
2 developments shall utilize, to the extent necessary, all available
3 federal, state, and local financing and subsidy programs identified
4 in paragraph (9) of subdivision (a), except where a community has
5 other urgent needs for which alternative funding sources are not
6 available. The program may include strategies that involve local
7 regulation and technical assistance.

8 (7) The program shall include an identification of the agencies
9 and officials responsible for the implementation of the various
10 actions and the means by which consistency will be achieved with
11 other general plan elements and community goals. The local
12 government shall make a diligent effort to achieve public
13 participation of all economic segments of the community in the
14 development of the housing element, and the program shall
15 describe this effort.

16 (d) (1) A local government may satisfy all or part of its
17 requirement to identify a zone or zones suitable for the
18 development of emergency shelters pursuant to paragraph (4) of
19 subdivision (a) by adopting and implementing a multijurisdictional
20 agreement, with a maximum of two other adjacent communities,
21 that requires the participating jurisdictions to develop at least one
22 year-round emergency shelter within two years of the beginning
23 of the planning period.

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

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

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

32 (B) The jurisdiction's contribution to the facility for both the
33 development and ongoing operation and management of the
34 facility.

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

37 (4) The aggregate capacity claimed by the participating
38 jurisdictions in their housing elements shall not exceed the actual
39 capacity of the shelter.

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

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

9 (2) Any housing element or housing element amendment
10 prepared pursuant to subdivision (e) of Section 65588 or Section
11 65584.02, when the city, county, or city and county fails to submit
12 the first draft to the department before the due date specified in
13 Section 65588 or 65584.02.

14 (f) *The deadline for completing required rezoning pursuant to*
15 *subparagraph (A) of paragraph (1) of subdivision (c) shall be*
16 *extended by one year if the local government has completed the*
17 *rezoning of at least 75 percent of the sites for each income group*
18 *and if the legislative body at the conclusion of a public hearing*
19 *determines, based upon substantial evidence, that any of the*
20 *following circumstances exist:*

21 (1) *The local government has been unable to complete the*
22 *rezoning because of the action or inaction beyond the control of*
23 *the local government of any other state federal or local agency.*

24 (2) *The local government is unable to complete the rezoning*
25 *because of infrastructure deficiencies due to fiscal or regulatory*
26 *constraints.*

27 (3) *The local government must undertake a major revision to*
28 *its general plan in order to accommodate the housing related*
29 *policies of a sustainable communities strategy or an alternative*
30 *planning strategy adopted pursuant to Section 65080.*

31 *The resolution and the findings shall be transmitted to the*
32 *department together with a detailed budget and schedule for*
33 *preparation and adoption of the required rezonings, including*
34 *plans for citizen participation and expected interim action. The*
35 *schedule shall provide for adoption of the required rezoning within*
36 *one year of the adoption of the resolution.*

37 (g) (1) *If a local government fails to complete the rezoning by*
38 *the deadline provided in subparagraph (A) of paragraph (1) of*
39 *subdivision (c), as it may be extended pursuant to subdivision (f),*
40 *except as provided in paragraph (2), a local government may not*

1 *disapprove a housing development project, nor require a*
2 *conditional use permit, planned unit development permit, or other*
3 *locally imposed discretionary permit or condition that would*
4 *render the project infeasible, if the housing development project*
5 *(A) is proposed to be located on a site required to be rezoned*
6 *pursuant to the program required by that subparagraph; and (B)*
7 *complies with applicable, objective general plan and zoning*
8 *standards and criteria, including design review standards,*
9 *described in the program required by that subparagraph. Any*
10 *subdivision of sites shall be subject to the Subdivision Map Act.*
11 *Design review shall not constitute a “project” for purposes of*
12 *Division 13 (commencing with Section 21000) of the Public*
13 *Resources Code.*

14 *(2) A local government may disapprove a housing development*
15 *described in paragraph (1) if it makes written findings supported*
16 *by substantial evidence on the record that both of the following*
17 *conditions exist:*

18 *(A) The housing development project would have a specific,*
19 *adverse impact upon the public health or safety unless the project*
20 *is disapproved or approved upon the condition that the project be*
21 *developed at a lower density. As used in this paragraph, a*
22 *“specific, adverse impact” means a significant, quantifiable, direct,*
23 *and unavoidable impact, based on objective, identified written*
24 *public health or safety standards, policies, or conditions as they*
25 *existed on the date the application was deemed complete.*

26 *(B) There is no feasible method to satisfactorily mitigate or*
27 *avoid the adverse impact identified pursuant to paragraph (1),*
28 *other than the disapproval of the housing development project or*
29 *the approval of the project upon the condition that it be developed*
30 *at a lower density.*

31 *(3) The applicant or any interested person may bring an action*
32 *to enforce this subparagraph. If a court finds that the local agency*
33 *disapproved a project or conditioned its approval in violation of*
34 *this paragraph, the court shall issue an order or judgment*
35 *compelling compliance within 60 days. The court shall retain*
36 *jurisdiction to ensure that its order or judgment is carried out. If*
37 *the court determines that its order or judgment has not been*
38 *carried out within 60 days, the court may issue further orders to*
39 *ensure that the purposes and policies of this paragraph are*
40 *fulfilled.*

(4) For purposes of this subdivision, “housing development project” means a project to construct residential units if the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

~~SEC. 7.~~

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

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

(b) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement

1 is reached, then the population projection for the region shall be
2 the population projection for the region prepared by the Department
3 of Finance as may be modified by the department as a result of
4 discussions with the council of governments.

5 (c) (1) At least 26 months prior to the scheduled revision
6 pursuant to Section 65588 and prior to developing the existing and
7 projected housing need for a region, the department shall meet and
8 consult with the council of governments regarding the assumptions
9 and methodology to be used by the department to determine the
10 region's housing needs. The council of governments shall provide
11 data assumptions from the council's projections, including, if
12 available, the following data for the region:

13 (A) Anticipated household growth associated with projected
14 population increases.

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

16 (C) The rate of household formation, or headship rates, based
17 on age, gender, ethnicity, or other established demographic
18 measures.

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

22 (E) Other characteristics of the composition of the projected
23 population.

24 (F) *The relationship between jobs and housing, including any*
25 *imbalance between jobs and housing.*

26 (2) The department may accept or reject the information
27 provided by the council of governments or modify its own
28 assumptions or methodology based on this information. After
29 consultation with the council of governments, the department shall
30 make determinations in writing on the assumptions for each of the
31 factors listed in subparagraphs (A) to ~~(E)~~ (F), inclusive, of
32 paragraph (1) and the methodology it shall use and shall provide
33 these determinations to the council of governments.

34 (d) (1) After consultation with the council of governments, the
35 department shall make a determination of the region's existing
36 and projected housing need based upon the assumptions and
37 methodology determined pursuant to subdivision (c). The region's
38 existing and projected housing need shall reflect the achievement
39 of a feasible balance between jobs and housing within the region
40 using the regional employment projections in the applicable

1 regional transportation plan. Within 30 days following notice of
2 the determination from the department, the council of governments
3 may file an objection to the department's determination of the
4 region's existing and projected housing need with the department.

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

7 (A) The department failed to base its determination on the
8 population projection for the region established pursuant to
9 subdivision (b), and shall identify the population projection which
10 the council of governments believes should instead be used for the
11 determination and explain the basis for its rationale.

12 (B) The regional housing need determined by the department
13 is not a reasonable application of the methodology and assumptions
14 determined pursuant to subdivision (c). The objection shall include
15 a proposed alternative determination of its regional housing need
16 based upon the determinations made in subdivision (c), including
17 analysis of why the proposed alternative would be a more
18 reasonable application of the methodology and assumptions
19 determined pursuant to subdivision (c).

20 (3) If a council of governments files an objection pursuant to
21 this subdivision and includes with the objection a proposed
22 alternative determination of its regional housing need, it shall also
23 include documentation of its basis for the alternative determination.
24 Within 45 days of receiving an objection filed pursuant to this
25 section, the department shall consider the objection and make a
26 final written determination of the region's existing and projected
27 housing need that includes an explanation of the information upon
28 which the determination was made.

29 *SEC. 9. Section 65584.02 of the Government Code is amended*
30 *to read:*

31 65584.02. (a) For the fourth and subsequent revisions of the
32 housing element pursuant to Section 65588, the existing and
33 projected need for housing may be determined for each region by
34 the department as follows, as an alternative to the process pursuant
35 to Section 65584.01:

36 (1) In a region in which at least one subregion has accepted
37 delegated authority pursuant to Section 65584.03, the region's
38 housing need shall be determined at least 26 months prior to the
39 housing element update deadline pursuant to Section 65588. In a
40 region in which no subregion has accepted delegation pursuant to

1 Section 65584.03, the region's housing need shall be determined
2 at least 24 months prior to the housing element deadline.

3 (2) At least six months prior to the department's determination
4 of regional housing need pursuant to paragraph (1), a council of
5 governments may request the use of population and household
6 forecast assumptions used in the regional transportation plan. ~~For~~
7 ~~a housing element update due date pursuant to Section 65588 that~~
8 ~~is prior to January 2007, the department may approve a request~~
9 ~~that is submitted prior to December 31, 2004, notwithstanding the~~
10 ~~deadline in this paragraph. This request shall include all of the~~
11 ~~following:~~

12 (A) Proposed data and assumptions for factors contributing to
13 housing need beyond household growth identified in the forecast.
14 These factors shall include allowance for vacant or replacement
15 units, and may include other adjustment factors.

16 (B) A proposed planning period that is not longer than the period
17 of time covered by the regional transportation improvement plan
18 or plans of the region pursuant to Section 14527, but a period not
19 less than five years, and not longer than six years.

20 (C) A comparison between the population and household
21 assumptions used for the Regional Transportation Plan with
22 population and household estimates and projections of the
23 Department of Finance.

24 ~~The council of governments may include a request to extend the~~
25 ~~housing element deadline pursuant to Section 65588 to a date not~~
26 ~~to exceed two years, for the purpose of coordination with the~~
27 ~~scheduled update of a regional transportation plan pursuant to~~
28 ~~federal law.~~

29 (b) The department shall consult with the council of
30 governments regarding requests submitted pursuant to paragraph
31 (2) of subdivision (a). The department may seek advice and consult
32 with the Demographic Research Unit of the Department of Finance,
33 the State Department of Transportation, a representative of a
34 contiguous council of governments, and any other party as deemed
35 necessary. The department may request that the council of
36 governments revise data, assumptions, or methodology to be used
37 for the determination of regional housing need, or may reject the
38 request submitted pursuant to paragraph (2) of subdivision (a).
39 Subsequent to consultation with the council of governments, the

1 department will respond in writing to requests submitted pursuant
2 to paragraph (1) of subdivision (a).

3 (c) If the council of governments does not submit a request
4 pursuant to subdivision (a), or if the department rejects the request
5 of the council of governments, the determination for the region
6 shall be made pursuant to Sections 65584 and 65584.01.

7 *SEC. 10. Section 65584.04 of the Government Code is amended*
8 *to read:*

9 65584.04. (a) At least two years prior to a scheduled revision
10 required by Section 65588, each council of governments, or
11 delegate subregion as applicable, shall develop a proposed
12 methodology for distributing the existing and projected regional
13 housing need to cities, counties, and cities and counties within the
14 region or within the subregion, where applicable pursuant to this
15 section. The methodology shall be consistent with the objectives
16 listed in subdivision (d) of Section 65584.

17 (b) (1) No more than six months prior to the development of a
18 proposed methodology for distributing the existing and projected
19 housing need, each council of governments shall survey each of
20 its member jurisdictions to request, at a minimum, information
21 regarding the factors listed in subdivision (d) that will allow the
22 development of a methodology based upon the factors established
23 in subdivision (d).

24 (2) The council of governments shall seek to obtain the
25 information in a manner and format that is comparable throughout
26 the region and utilize readily available data to the extent possible.

27 (3) The information provided by a local government pursuant
28 to this section shall be used, to the extent possible, by the council
29 of governments, or delegate subregion as applicable, as source
30 information for the methodology developed pursuant to this section.
31 The survey shall state that none of the information received may
32 be used as a basis for reducing the total housing need established
33 for the region pursuant to Section 65584.01.

34 (4) If the council of governments fails to conduct a survey
35 pursuant to this subdivision, a city, county, or city and county may
36 submit information related to the items listed in subdivision (d)
37 prior to the public comment period provided for in subdivision
38 (c).

39 (c) Public participation and access shall be required in the
40 development of the methodology and in the process of drafting

1 and adoption of the allocation of the regional housing needs.
2 Participation by organizations other than local jurisdictions and
3 councils of governments shall be solicited in a diligent effort to
4 achieve public participation of all economic segments of the
5 community. The proposed methodology, along with any relevant
6 underlying data and assumptions, and an explanation of how
7 information about local government conditions gathered pursuant
8 to subdivision (b) has been used to develop the proposed
9 methodology, and how each of the factors listed in subdivision (d)
10 is incorporated into the methodology, shall be distributed to all
11 cities, counties, any subregions, and members of the public who
12 have made a written request for the proposed methodology. The
13 council of governments, or delegate subregion, as applicable, shall
14 conduct at least one public hearing to receive oral and written
15 comments on the proposed methodology.

16 (d) To the extent that sufficient data is available from local
17 governments pursuant to subdivision (b) or other sources, each
18 council of governments, or delegate subregion as applicable, shall
19 include the following factors to develop the methodology that
20 allocates regional housing needs:

21 (1) Each member jurisdiction's existing and projected jobs and
22 housing relationship.

23 (2) The opportunities and constraints to development of
24 additional housing in each member jurisdiction, including all of
25 the following:

26 (A) Lack of capacity for sewer or water service due to federal
27 or state laws, regulations or regulatory actions, or supply and
28 distribution decisions made by a sewer or water service provider
29 other than the local jurisdiction that preclude the jurisdiction from
30 providing necessary infrastructure for additional development
31 during the planning period.

32 (B) The availability of land suitable for urban development or
33 for conversion to residential use, the availability of underutilized
34 land, and opportunities for infill development and increased
35 residential densities. The council of governments may not limit
36 its consideration of suitable housing sites or land suitable for urban
37 development to existing zoning ordinances and land use restrictions
38 of a locality, but shall consider the potential for increased
39 residential development under alternative zoning ordinances and
40 land use restrictions. The determination of available land suitable

1 for urban development may exclude lands where the Federal
2 Emergency Management Agency (FEMA) or the Department of
3 Water Resources has determined that the flood management
4 infrastructure designed to protect that land is not adequate to avoid
5 the risk of flooding.

6 (C) Lands preserved or protected from urban development under
7 existing federal or state programs, or both, designed to protect
8 open space, farmland, environmental habitats, and natural resources
9 on a long-term basis.

10 (D) County policies to preserve prime agricultural land, as
11 defined pursuant to Section 56064, within an unincorporated area.

12 (3) The distribution of household growth assumed for purposes
13 of a comparable period of regional transportation plans and
14 opportunities to maximize the use of public transportation and
15 existing transportation infrastructure.

16 (4) The market demand for housing.

17 (5) Agreements between a county and cities in a county to direct
18 growth toward incorporated areas of the county.

19 (6) The loss of units contained in assisted housing developments,
20 as defined in paragraph-(8) (9) of subdivision (a) of Section 65583,
21 that changed to non-low-income use through mortgage prepayment,
22 subsidy contract expirations, or termination of use restrictions.

23 (7) High-housing cost burdens.

24 (8) The housing needs of farmworkers.

25 (9) The housing needs generated by the presence of a private
26 university or a campus of the California State University or the
27 University of California within any member jurisdiction.

28 (10) Any other factors adopted by the council of governments.

29 (e) The council of governments, or delegate subregion, as
30 applicable, shall explain in writing how each of the factors
31 described in subdivision (d) was incorporated into the methodology
32 and how the methodology is consistent with subdivision (d) of
33 Section 65584. The methodology may include numerical weighting.

34 (f) Any ordinance, policy, voter-approved measure, or standard
35 of a city or county that directly or indirectly limits the number of
36 residential building permits issued by a city or county shall not be
37 a justification for a determination or a reduction in the share of a
38 city or county of the regional housing need.

39 (g) In addition to the factors identified pursuant to subdivision
40 (d), the council of governments, or delegate subregion, as

1 applicable, shall identify any existing local, regional, or state
2 incentives, such as a priority for funding or other incentives
3 available to those local governments that are willing to accept a
4 higher share than proposed in the draft allocation to those local
5 governments by the council of governments or delegate subregion
6 pursuant to Section 65584.05.

7 (h) Following the conclusion of the 60-day public comment
8 period described in subdivision (c) on the proposed allocation
9 methodology, and after making any revisions deemed appropriate
10 by the council of governments, or delegate subregion, as applicable,
11 as a result of comments received during the public comment period,
12 each council of governments, or delegate subregion, as applicable,
13 shall adopt a final regional, or subregional, housing need allocation
14 methodology and provide notice of the adoption of the
15 methodology to the jurisdictions within the region, or delegate
16 subregion as applicable, and to the department.

17 (i) (1) *It is the intent of the Legislature that housing planning*
18 *be coordinated and integrated with the regional transportation*
19 *plan. To achieve this goal, the allocation plan shall allocate*
20 *housing units within the region consistent with the development*
21 *pattern included in the sustainable communities strategy.*

22 (2) *The final allocation plan shall ensure that the total regional*
23 *housing need, by income category, as determined under Section*
24 *65584, is maintained, and that each jurisdiction in the region*
25 *receive an allocation of units for low- and very low income*
26 *households.*

27 (3) *The resolution approving the final housing need allocation*
28 *plan shall demonstrate that the plan is consistent with the*
29 *sustainable communities strategy in the regional transportation*
30 *plan.*

31 *SEC. 11. Section 65587 of the Government Code is amended*
32 *to read:*

33 65587. (a) Each city, county, or city and county shall bring
34 its housing element, as required by subdivision (c) of Section
35 65302, into conformity with the requirements of this article on or
36 before October 1, 1981, and the deadlines set by Section 65588.
37 Except as specifically provided in subdivision (b) of Section 65361,
38 the Director of Planning and Research shall not grant an extension
39 of time from these requirements.

1 (b) Any action brought by any interested party to review the
2 conformity with the provisions of this article of any housing
3 element or portion thereof or revision thereto shall be brought
4 pursuant to Section 1085 of the Code of Civil Procedure; the
5 court's review of compliance with the provisions of this article
6 shall extend to whether the housing element or portion thereof or
7 revision thereto substantially complies with the requirements of
8 this article.

9 (c) If a court finds that an action of a city, county, or city and
10 county, which is required to be consistent with its general plan,
11 does not comply with its housing element, the city, county, or city
12 and county shall bring its action into compliance within 60 days.
13 However, the court shall retain jurisdiction throughout the period
14 for compliance to enforce its decision. Upon the court's
15 determination that the 60-day period for compliance would place
16 an undue hardship on the city, county, or city and county, the court
17 may extend the time period for compliance by an additional 60
18 days.

19 (d) (1) *If a court finds that a city, county, or city and county*
20 *failed to complete the rezoning required by subparagraph (A) of*
21 *paragraph (1) of subdivision (c) of Section 65583, as that deadline*
22 *may be modified by the extension provided for in subdivision (f)*
23 *of that section, the court shall issue an order or judgment*
24 *compelling the local government to complete the rezoning within*
25 *60 days or the earliest time consistent with public hearing notice*
26 *requirements and the overall equities of the circumstances. The*
27 *court shall retain jurisdiction to ensure that its order or judgment*
28 *is carried out. If the court determines that its order or judgment*
29 *is not carried out, the court shall issue further orders to ensure*
30 *that the purposes and policies of this article are fulfilled, including*
31 *ordering that any rezoning required by subparagraph (A) of*
32 *paragraph (1) of subdivision (c) of Section 65583 be completed*
33 *within 60 days or the earliest time consistent with public hearing*
34 *notice requirements and may impose sanctions on the city, county,*
35 *or city and county, taking into account the overall equities of the*
36 *circumstances.*

37 (2) *Any interested person may bring an action to compel*
38 *compliance with the deadlines and requirements of subparagraph*
39 *(A) of paragraph (1) of subdivision (c) of Section 65583. The action*
40 *shall be brought pursuant to Section 1085 of the Code of Civil*

1 *Procedure and the notice and accrual provisions of subdivision*
2 *(d) of Section 65009. In any such action, the city, county, or city*
3 *and county shall bear the burden of proof.*

4 *SEC. 12. Section 65588 of the Government Code is amended*
5 *to read:*

6 65588. (a) Each local government shall review its housing
7 element as frequently as appropriate to evaluate all of the
8 following:

9 (1) The appropriateness of the housing goals, objectives, and
10 policies in contributing to the attainment of the state housing goal.

11 (2) The effectiveness of the housing element in attainment of
12 the community's housing goals and objectives.

13 (3) The progress of the city, county, or city and county in
14 implementation of the housing element.

15 (b) The housing element shall be revised as appropriate, but not
16 less than every ~~five~~ *eight* years, to reflect the results of this periodic
17 review, *except that a local government that does not adopt a*
18 *housing element within 90 days after receipt of comments from*
19 *the department pursuant to subdivision (b) of Section 65585 or*
20 *the date the legislative body takes action pursuant to subdivision*
21 *(f) of Section 65585, whichever is earlier, shall revise its housing*
22 *element, as appropriate, but not less than every four years.*

23 (c) The review and revision of housing elements required by
24 this section shall take into account any low- or moderate-income
25 housing provided or required pursuant to Section 65590.

26 (d) The review pursuant to subdivision (c) shall include, but
27 need not be limited to, the following:

28 (1) The number of new housing units approved for construction
29 within the coastal zone after January 1, 1982.

30 (2) The number of housing units for persons and families of
31 low or moderate income, as defined in Section 50093 of the Health
32 and Safety Code, required to be provided in new housing
33 developments either within the coastal zone or within three miles
34 of the coastal zone pursuant to Section 65590.

35 (3) The number of existing residential dwelling units occupied
36 by persons and families of low or moderate income, as defined in
37 Section 50093 of the Health and Safety Code, that have been
38 authorized to be demolished or converted since January 1, 1982,
39 in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) ~~Subsequent~~ *Except as provided in subdivision (b), subsequent* revisions shall be completed not less often than ~~at five-year~~ *eight-year* intervals following the fourth revision *in conjunction with the development of the regional transportation plan pursuant to Section 65080.*

~~SEC. 8.~~

SEC. 13. Section 21061.3 of the Public Resources Code is amended to read:

1 21061.3. “Infill site” means a site in an urbanized area that
2 meets either of the following criteria:

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

5 (1) The site is immediately adjacent to parcels that are developed
6 with qualified urban uses, or at least 75 percent of the perimeter
7 of the site adjoins parcels that are developed with qualified urban
8 uses, and the remaining 25 percent of the site adjoins parcels that
9 have previously been developed for qualified urban uses.

10 (2) No parcel within the site has been created within the past
11 10 years unless the parcel was created as a result of the plan of a
12 redevelopment agency.

13 (b) The site has been previously developed for qualified urban
14 uses.

15 ~~SEC. 9. Section 21094 of the Public Resources Code is~~
16 ~~amended to read:~~

17 ~~21094. (a) Where a prior environmental impact report has~~
18 ~~been prepared and certified for a program, plan, policy, or~~
19 ~~ordinance, the lead agency for a later project that meets the~~
20 ~~requirements of this section shall examine significant effects of~~
21 ~~the later project upon the environment by using a tiered~~
22 ~~environmental impact report, except that the report on the later~~
23 ~~project need not examine those effects which the lead agency~~
24 ~~determines were either (1) mitigated or avoided pursuant to~~
25 ~~paragraph (1) of subdivision (a) of Section 21081 as a result of the~~
26 ~~prior environmental impact report, or (2) examined at a sufficient~~
27 ~~level of detail in the prior environmental impact report to enable~~
28 ~~those effects to be mitigated or avoided by site specific revisions,~~
29 ~~the imposition of conditions, or by other means in connection with~~
30 ~~the approval of the later project.~~

31 ~~(b) This section applies only to a later project which the lead~~
32 ~~agency determines (1) is consistent with the program, plan, policy,~~
33 ~~or ordinance for which an environmental impact report has been~~
34 ~~prepared and certified, (2) is consistent with applicable local land~~
35 ~~use plans and zoning of the city, county, or city and county in~~
36 ~~which the later project would be located, and (3) is not subject to~~
37 ~~Section 21166.~~

38 ~~(c) For purposes of compliance with this section, an initial study~~
39 ~~shall be prepared to assist the lead agency in making the~~
40 ~~determinations required by this section. The initial study shall~~

1 analyze whether the later project may cause significant effects on
2 the environment that were not examined in the prior environmental
3 impact report.

4 (d) All public agencies which propose to carry out or approve
5 the later project may utilize the prior environmental impact report
6 and the environmental impact report on the later project to fulfill
7 the requirements of Section 21081.

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

12 (f) If a residential, commercial, or retail project is consistent
13 with a sustainable communities strategy, as modified by a
14 supplement, if any, adopted pursuant to Section 65080 of the
15 Government Code, the environmental analysis of that project may
16 tier the analysis of the climate impacts of greenhouse gas emissions
17 from automobiles and light trucks associated with the project from
18 the environmental impact report prepared for the regional
19 transportation plan. For purposes of this section, “consistent with
20 a sustainable communities strategy” means that the use, density,
21 and intensity of the project are consistent with the use, density,
22 and intensity identified for the project area in the sustainable
23 communities strategy, as modified by a supplement, if any, and
24 any mitigation measures adopted in the environmental impact
25 report on the regional transportation plan have been or will be
26 incorporated into the project. Nothing in this subdivision restricts
27 the use of a tiered environmental impact report as otherwise
28 provided in this division.

29 SEC. 10.

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

32
33 CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE
34 COMMUNITIES STRATEGY
35

36 21155. (a) This chapter applies only within a local jurisdiction
37 that has amended its general plan so that the land use, housing,
38 and open-space elements of the general plan are substantially
39 consistent with the sustainable communities strategy, as modified
40 by a supplement, if any, most recently adopted by the transportation

1 ~~planning agency pursuant to Section 65080 of the Government~~
2 ~~Code for the region in which the local government is located.~~

3 ~~(b) For purposes of this section, the land use, housing, and~~
4 ~~open-space elements of the general plan are substantially consistent~~
5 ~~with the sustainable communities strategy, as modified by a~~
6 ~~supplement, if any, if the land use and housing elements designate~~
7 ~~housing, retail, commercial, office, and industrial uses at levels of~~
8 ~~density and intensity that are substantially consistent with the uses,~~
9 ~~density, and intensity identified in the sustainable communities~~
10 ~~strategy, as modified by a supplement, if any, for those locations~~
11 ~~and if the open space element designates uses for significant~~
12 ~~farmlands or significant resource areas that are consistent with the~~
13 ~~protection of all of the resources of those lands or areas.~~

14 ~~(c) Notwithstanding subdivision (a), the provisions of Sections~~
15 ~~21155.1, 21155.2, and 21155.3 may be utilized for projects within~~
16 ~~a local jurisdiction if the project is shown only in the supplement~~
17 ~~to the sustainable communities strategy.~~

18 ~~(d) Notwithstanding subdivision (a) or (c), the provisions of~~
19 ~~Sections 21155.1, 21155.2, and 21155.3 may not be utilized for~~
20 ~~projects identified for development on lands referenced in clause~~
21 ~~(v) of subparagraph (F) of paragraph (2) of subdivision (b) of~~
22 ~~Section 65080.~~

23 *21155. (a) Except for Section 21155.3, this chapter applies*
24 *only to a transit priority project that is consistent with the general*
25 *use designation, density, building intensity, and applicable policies*
26 *specified for the project area in either a sustainable communities*
27 *strategy or an alternative planning strategy, for which the State*
28 *Air Resources Board, pursuant to subparagraph (H) of paragraph*
29 *(2) of subdivision (b) of Section 65080 of the Government Code,*
30 *has accepted a metropolitan planning organization's determination*
31 *that the sustainable communities strategy or the alternative*
32 *planning strategy would, if implemented, achieve the greenhouse*
33 *gas emission reduction targets.*

34 *(b) For purposes of this chapter, a transit priority project shall*
35 *(1) contain at least 50 percent residential use, based on total*
36 *building square footage and, if the project contains between 26*
37 *percent and 50 percent nonresidential uses, a floor area ratio of*
38 *not less than 0.75; (2) provide a minimum net density of at least*
39 *20 dwelling units per acre; and (3) be within one-half mile of an*
40 *existing or planned major transit stop or high-quality transit*

1 *corridor as set forth in the applicable regional transportation plan.*
2 *A major transit stop is as defined in Section 21064.3, except that,*
3 *for purposes of this section, it also includes major transit stops*
4 *that are planned in the applicable regional transportation plan.*
5 *For purposes of this section, a high-quality transit corridor means*
6 *a corridor with fixed route bus service with, at most, 15-minute*
7 *service intervals during peak commute hours. A project shall be*
8 *considered to be within one-half mile of a major transit stop or*
9 *high-quality transit corridor if a predominant portion of the entire*
10 *project site is within one-half mile of the stop or corridor.*

11 21155.1. If the legislative body finds, after conducting a public
12 hearing, that a *transit priority* project meets all of the requirements
13 of subdivisions (a) and (b) and one of the requirements of
14 subdivision (c), the *transit priority* project is declared to be a
15 sustainable communities project and shall ~~not be subject to any~~
16 ~~other provisions of~~ *be exempt from this division.*

17 (a) The *transit priority* project complies with all of the following
18 environmental criteria:

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

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

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

39 (C) For the purposes of this paragraph:

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

(ii) “Wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and 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 *transit priority* 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 *transit priority* 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.

1 (5) The *transit priority* project does not have a significant effect
2 on historical resources pursuant to Section 21084.1.

3 (6) The *transit priority* project site is not subject to any of the
4 following:

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

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

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

13 (D) Seismic risk as a result of being within a delineated
14 earthquake fault zone, as determined pursuant to Section 2622, or
15 a seismic hazard zone, as determined pursuant to Section 2696,
16 unless the applicable general plan or zoning ordinance contains
17 provisions to mitigate the risk of an earthquake fault or seismic
18 hazard zone.

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

22 (7) The *transit priority* project site is not located on developed
23 open space.

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

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

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

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

33 (B) For the purposes of this paragraph, “developed open space”
34 includes land that has been designated for acquisition by a public
35 agency for developed open space, but does not include lands
36 acquired with public funds dedicated to the acquisition of land for
37 housing purposes.

38 (8) The buildings in the *transit priority* project will comply with
39 all green building standards required by the local jurisdiction.

(b) The *transit priority* project meets all of the following land use criteria:

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

~~(2) 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.~~

~~(3)~~

(1) The site of the *transit priority* project is not more than eight acres in total area.

~~(4) The~~

(2) The *transit priority* project does not contain more than 200 residential units.

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

~~(6) The~~

(3) The *transit priority* project does not result in any net loss in the number of affordable housing units within the project area.

~~(7) The~~

(4) The *transit priority* project does not include any single level building that exceeds 75,000 square feet.

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

~~(9)~~

(5) 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 or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the *transit priority* project.

~~(10) The~~

(6) The *transit priority* project is determined not to conflict with nearby operating industrial uses.

(c) The *transit priority* project meets at least one of the following ~~four~~ three criteria:

(1) The *transit priority* project meets both of the following:

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

(B) The *transit priority* project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

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

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

~~(4) The~~

(3) The *transit priority* project provides public open space equal to or greater than five acres per 1,000 residents of the project.

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

(1) Environmental impact reports have been certified on the regional transportation plan containing the sustainable communities strategy and on the applicable general plan provisions *alternative planning strategy, if applicable*.

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

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

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

(b) A *transit priority* project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant project-specific impacts of the project

1 *transit priority project, other than those which do not need to be*
2 *reviewed pursuant to Section 21159.28 based on substantial*
3 *evidence in light of the whole record. The initial study also does*
4 *not need to evaluate any significant cumulative or growth-inducing*
5 *effects on the environment that were identified and discussed in*
6 *the environmental impact reports certified for the regional*
7 *transportation plan and the ~~general plan~~ alternative planning*
8 *strategy, if any.*

9 (2) The sustainable communities environmental assessment
10 shall contain measures that ~~substantially lessen~~ *either avoid or*
11 *mitigate* to a level of insignificance ~~or avoid all project-specific~~
12 *all potentially significant or significant impacts of the project*
13 *required to be identified in the initial study.*

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

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

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

24 (A) All ~~potentially significant or significant project-specific~~
25 ~~impacts~~ *impacts required to be identified in the initial study* have
26 been identified and analyzed.

27 (B) With respect to each ~~significant project-specific impact on~~
28 ~~the environment~~ *impact on the environment required to be*
29 *identified in the initial study*, either of the following apply:

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

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

36 (6) The legislative body of the lead agency shall conduct the
37 public hearing or a planning commission may conduct the public
38 hearing if local ordinances allow a direct appeal of approval of a
39 document prepared pursuant to this division to the legislative body
40 subject to a fee not to exceed five hundred dollars (\$500).

1 (7) The lead agency's ~~approval of~~ *decision to review and*
2 *approve a transit priority project with* a sustainable communities
3 environmental assessment shall be reviewed under the substantial
4 evidence standard.

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

8 (1) An initial study shall be prepared to identify all ~~the~~
9 ~~project-specific impacts of the project that may have a significant~~
10 ~~effect on the environment based upon substantial evidence in light~~
11 ~~of the whole record. The initial study does not need to evaluate~~
12 ~~significant or potentially significant impacts of the transit priority~~
13 ~~project other than those that do not need to be reviewed pursuant~~
14 ~~to Section 21159.28 based upon substantial evidence in light of~~
15 ~~the whole record. The initial study also does not need to evaluate~~
16 any significant cumulative or growth-inducing effects on the
17 environment that were identified and discussed in the
18 environmental impact reports certified for the regional
19 transportation plan and the ~~general plan~~ *alternative planning*
20 *strategy, if any.*

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

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

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

1 ~~(e) (1) A project described in subdivision (b)~~

2 ~~(b) (1) A transit priority project~~ that is seeking a discretionary
3 approval is not required to comply with any additional mitigation
4 measures required by paragraph (1) or (2) of subdivision (a) of
5 Section 21081, for the traffic impacts of that project on
6 intersections, streets, highways, freeways, or mass transit, if the
7 local jurisdiction issuing that discretionary approval has adopted
8 traffic mitigation measures in accordance with this section.

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

13 ~~(d)~~

14 (c) The legislative body shall review its traffic mitigation
15 measures and update them as needed at least every five years.

16 ~~SEC. 11. The Legislature finds that there is no mandate~~
17 ~~contained in this act that will result in costs incurred by a local~~
18 ~~agency or school district for a new program or higher level of~~
19 ~~service which require reimbursement pursuant to Section 6 of~~
20 ~~Article XIII B of the California Constitution and Part 7~~
21 ~~(commencing with Section 17500) of Division 4 of Title 2 of the~~
22 ~~Government Code.~~

23 *SEC. 15. Section 21159.28 is added to the Public Resources*
24 *Code, to read:*

25 *21159.28. (a) If a residential or mixed-use residential project*
26 *is consistent with the use designation, density, building intensity,*
27 *and applicable policies specified for the project area in either a*
28 *sustainable communities strategy or an alternative planning*
29 *strategy, for which the State Air Resources Board pursuant to*
30 *subparagraph (J) of paragraph (2) of subdivision (b) of Section*
31 *65080 of the Government Code has accepted the metropolitan*
32 *planning organization's determination that the sustainable*
33 *communities strategy or the alternative planning strategy would,*
34 *if implemented, achieve the greenhouse gas emission reduction*
35 *targets and if the project incorporates the mitigation measures*
36 *required by an applicable prior environmental document, then*
37 *any findings or other determinations for an exemption, a negative*
38 *declaration, a mitigated negative declaration, an environmental*
39 *impact report, or addenda prepared or adopted for the project*
40 *pursuant to this division shall not be required to reference,*

1 *describe, or discuss (1) growth inducing impacts; or (2) any project*
2 *specific or cumulative impacts from cars and light-duty truck trips*
3 *generated by the project on global warming or the regional*
4 *transportation network.*

5 *(b) Any environmental impact report prepared for a project*
6 *described in subdivision (a) shall not be required to reference,*
7 *describe, or discuss a reduced residential density alternative to*
8 *address the effects of car and light-duty truck trips generated by*
9 *the project.*

10 *(c) "Regional transportation network," for purposes of this*
11 *section, means all existing and proposed transportation*
12 *improvements that were included in the transportation and air*
13 *quality conformity modeling, including congestion modeling, for*
14 *the final regional transportation plan adopted by the metropolitan*
15 *planning organization, but shall not include local streets and roads.*
16 *Nothing in the foregoing relieves any project from a requirement*
17 *to comply with any conditions, exactions, or fees for the mitigation*
18 *of the project's impacts on the regional transportation network or*
19 *local streets and roads.*

20 *(d) A residential or mixed-use residential project is a project*
21 *where at least 75 percent of the total building square footage of*
22 *the project consists of residential use or a project that is a transit*
23 *priority project as defined in Section 21155.*

24 *SEC. 16. If the Commission on State Mandates determines that*
25 *this act contains costs mandated by the state, reimbursement to*
26 *local agencies and school districts for those costs shall be made*
27 *pursuant to Part 7 (commencing with Section 17500) of Division*
28 *4 of Title 2 of the Government Code.*