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AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 375

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

February 21, 2007

An act to amend Sections 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 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 to maintain guidelines, *as specified*, for travel demand models used in the development of regional transportation plans by metropolitan planning organizations. The bill would require the ~~Department of Transportation to assist the commission, on request, to consult with various agencies~~ in this regard, and ~~would impose other related requirements to form an advisory committee and to hold workshops before amending the guidelines.~~

This bill would also require the regional transportation plan for regions of the state with a metropolitan planning organization to 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 metropolitan planning organizations, to provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035 by September 30, 2010, to appoint a Regional Targets Advisory Committee to recommend factors and methodologies for setting those targets, and to update those targets every 8 years. The bill would require certain transportation planning and programming activities by 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 emission reduction targets, the bill would require affected metropolitan planning

organizations to prepare an alternative planning strategy to the sustainable communities strategy showing how the targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The bill would 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 instead require the program to set forth a schedule of actions during the planning period, as defined, 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 for those local governments that are located within a region covered by a metropolitan planning organization in a nonattainment region or by a metropolitan planning organization or regional transportation planning agency that meets certain requirements. The bill would also provide that, in certain cases, the time period would be reduced to 4 years or other periods, as specified.

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.

(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 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 transit priority projects. The bill would exempt a 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.

(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

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

3 (b) In 2006, the Legislature passed and the Governor signed
4 Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter
5 AB 32), which requires the State of California to reduce its
6 greenhouse gas emissions to 1990 levels no later than 2020.
7 According to the State Air Resources Board, in 1990 greenhouse
8 gas emissions from automobiles and light trucks were 108 million
9 metric tons, but by 2004 these emissions had increased to 135
10 million metric tons.

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

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

26 (e) Current federal law requires regional transportation planning
27 agencies to include a land use allocation in the regional
28 transportation plan. Some regions have engaged in a regional
29 "blueprint" process to prepare the land use allocation. This process
30 has been open and transparent. The Legislature intends, by this
31 act, to build upon that successful process by requiring metropolitan
32 planning organizations to develop and incorporate a sustainable
33 communities strategy which will be the land use allocation in the
34 regional transportation plan.

35 (f) The California Environmental Quality Act (CEQA) is
36 California's premier environmental statute. New provisions of
37 CEQA should be enacted so that the statute encourages developers
38 to submit applications and local governments to make land use
39 decisions that will help the state achieve its climate goals under

1 AB 32, assist in the achievement of state and federal air quality
2 standards, and increase petroleum conservation.

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

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

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

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

19 14522.1. (a) (1) The commission, in consultation with the
20 *department and the State Air Resources Board*, shall maintain
21 guidelines for travel demand models used in the development of
22 regional transportation plans by federally designated metropolitan
23 planning organizations.

24 (2) Any revision of the guidelines shall include the formation
25 of an advisory committee that shall include representatives of the
26 metropolitan planning organizations, the department, organizations
27 knowledgeable in the creation and use of travel demand models,
28 local governments, and organizations concerned with the impacts
29 of transportation investments on communities and the environment.
30 Before amending the guidelines, the commission shall hold two
31 workshops on the guidelines, one in northern California and one
32 in southern California. The workshops shall be incorporated into
33 regular commission meetings.

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

36 ~~(c)~~

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

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

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

6 (3) Changes in travel and land development likely to result from
7 highway or passenger rail expansion.

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

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

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

16 14522.2. (a) A metropolitan planning ~~organizations~~
17 *organization* shall disseminate the methodology, results, and key
18 assumptions of whichever travel demand models it uses in a way
19 that would be useable and understandable to the public.

20 (b) Transportation planning agencies other than those identified
21 in paragraph (1) of subdivision (a) of Section 14522.1, cities, and
22 counties are encouraged, but not required, to utilize travel demand
23 models that are consistent with the guidelines in the development
24 of their regional transportation plans.

25 SEC. 4. Section 65080 of the Government Code is amended
26 to read:

27 65080. (a) Each transportation planning agency designated
28 under Section 29532 or 29532.1 shall prepare and adopt a regional
29 transportation plan directed at achieving a coordinated and balanced
30 regional transportation system, including, but not limited to, mass
31 transportation, highway, railroad, maritime, bicycle, pedestrian,
32 goods movement, and aviation facilities and services. The plan
33 shall be action-oriented and pragmatic, considering both the
34 short-term and long-term future, and shall present clear, concise
35 policy guidance to local and state officials. The regional
36 transportation plan shall consider factors specified in Section 134
37 of Title 23 of the United States Code. Each transportation planning
38 agency shall consider and incorporate, as appropriate, the
39 transportation plans of cities, counties, districts, private
40 organizations, and state and federal agencies.

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

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

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

15 (B) Measures of road and bridge maintenance and rehabilitation
16 needs, including, but not limited to, roadway pavement and bridge
17 conditions.

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

21 (i) Single occupant vehicle.

22 (ii) Multiple occupant vehicle or carpool.

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

24 (iv) Walking.

25 (v) Bicycling.

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

29 (E) Measures of equity and accessibility, including, but not
30 limited to, percentage of the population served by frequent and
31 reliable public transit, with a breakdown by income bracket, and
32 percentage of all jobs accessible by frequent and reliable public
33 transit service, with a breakdown by income bracket.

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

37 (2) A sustainable communities strategy prepared by each
38 metropolitan planning organization as follows:

39 (A) No later than September 30, 2010, the State Air Resources
40 Board shall provide each affected region with greenhouse gas

1 emission reduction targets for the automobile and light truck sector
2 for 2020 and 2035, respectively.

3 (i) No later than January 31, 2009, the state board shall appoint
4 a Regional Targets Advisory Committee to recommend factors to
5 be considered and methodologies to be used for setting greenhouse
6 gas emission reduction targets for the affected regions. The
7 committee shall be composed of representatives of the metropolitan
8 planning organizations, affected air districts, the League of
9 California Cities, the California State Association of Counties,
10 local transportation agencies, and members of the public, including
11 homebuilders, environmental organizations, planning organizations,
12 environmental justice organizations, affordable housing
13 organizations, and others. The advisory committee shall transmit
14 a report with its recommendations to the state board no later than
15 September 30, 2009. In recommending factors to be considered
16 and methodologies to be used, the advisory committee may
17 consider any relevant issues, including, but not limited to, data
18 needs, modeling techniques, growth forecasts, the impacts of
19 regional jobs-housing balance on interregional travel and
20 greenhouse gas emissions, economic and demographic trends, the
21 magnitude of greenhouse gas reduction benefits from a variety of
22 land use and transportation strategies, and appropriate methods to
23 describe regional targets and to monitor performance in attaining
24 those targets. The state board shall consider the report prior to
25 setting the targets.

26 (ii) Prior to setting the targets for a region, the state board shall
27 exchange technical information with the metropolitan planning
28 organization and the affected air district. The metropolitan planning
29 organization may recommend a target for the region. The
30 metropolitan planning organization shall hold at least one public
31 workshop within the region after receipt of the report from the
32 advisory committee. The state board shall release draft targets for
33 each region no later than June 30, 2010.

34 (iii) In establishing these targets, the state board shall take into
35 account greenhouse gas emission reductions that will be achieved
36 by improved vehicle emission standards, changes in fuel
37 composition, and other measures it has approved that will reduce
38 greenhouse gas emissions in the affected regions, and prospective
39 measures the state board plans to adopt to reduce greenhouse gas
40 emissions from other greenhouse gas emission sources as that term

is defined in subdivision (i) of Section 38505 of the Health and Safety Code and consistent with the regulations promulgated pursuant to the California Global Warming Solutions Act of 2006 (Division 12.5 (commencing with Section 38500) of the Health and Safety Code).

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii) above. The state board shall exchange technical information with the *Department of Transportation*, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.

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

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region; (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth; (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584; (iv) identify a transportation network to service the transportation needs of the region; (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01; (vi) consider the state housing goals specified in Sections 65580 and 65581; (vii) set forth a forecasted development pattern

1 for the region, which, when integrated with the transportation
2 network, and other transportation measures and policies, will
3 reduce the greenhouse gas emissions from automobiles and light
4 trucks to achieve, if there is a feasible way to do so, the greenhouse
5 gas emission reduction targets approved by the state board; and
6 (viii) allow the regional transportation plan to comply with Section
7 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within
8 the jurisdiction of the Metropolitan Transportation Commission,
9 as defined by Section 66502, the Association of Bay Area
10 Governments shall be responsible for clauses (i), (ii), (iii), (v), and
11 (vi), the Metropolitan Transportation Commission shall be
12 responsible for clauses (iv) and (viii); and the Association of Bay
13 Area Governments and the Metropolitan Transportation
14 Commission shall jointly be responsible for clause (vii).

15 (C) In the region served by the multicounty transportation
16 planning agency described in Section 130004 of the Public Utilities
17 Code, a subregional council of governments and the county
18 transportation commission may work together to propose the
19 sustainable communities strategy and an alternative planning
20 strategy, if one is prepared pursuant to subparagraph (H), for that
21 subregional area. The metropolitan planning organization may
22 adopt a framework for a subregional sustainable communities
23 strategy or a subregional alternative planning strategy to address
24 the intraregional land use, transportation, economic, air quality,
25 and climate policy relationships. The metropolitan planning
26 organization shall include the subregional sustainable communities
27 strategy for that subregion in the regional sustainable communities
28 strategy to the extent consistent with this section and federal law
29 and approve the subregional alternative planning strategy, if one
30 is prepared pursuant to subparagraph (H), for that subregional area
31 to the extent consistent with this section. The metropolitan planning
32 organization shall develop overall guidelines, create public
33 participation plans pursuant to subparagraph (E), ensure
34 coordination, resolve conflicts, make sure that the overall plan
35 complies with applicable legal requirements, and adopt the plan
36 for the region.

37 (D) The metropolitan planning organization shall conduct at
38 least two informational meetings in each county within the region
39 for members of the board of supervisors and city councils on the
40 sustainable communities strategy and alternative planning strategy,

1 if any. The metropolitan planning organization may conduct only
2 one informational meeting if it is attended by representatives of
3 the county board of supervisors and city council members
4 representing a majority of the cities representing a majority of the
5 population in the incorporated areas of that county. Notice of the
6 meeting shall be sent to the clerk of the board of supervisors and
7 to each city clerk. The purpose of the meeting shall be to present
8 a draft of the sustainable communities strategy to the members of
9 the board of supervisors and the city council members in that
10 county and to solicit and consider their input and recommendations.

11 (E) Each metropolitan planning organization shall adopt a public
12 participation plan, for development of the sustainable communities
13 strategy and an alternative planning strategy, if any, that includes
14 all of the following:

15 (i) Outreach efforts to encourage the active participation of a
16 broad range of stakeholder groups in the planning process,
17 consistent with the agency's adopted Federal Public Participation
18 Plan, including, but not limited to, affordable housing advocates,
19 transportation advocates, neighborhood and community groups,
20 environmental advocates, home builder representatives,
21 broad-based business organizations, landowners, commercial
22 property interests, and homeowner associations.

23 (ii) Consultation with congestion management agencies,
24 transportation agencies, and transportation commissions.

25 (iii) Workshops throughout the region to provide the public with
26 the information and tools necessary to provide a clear
27 understanding of the issues and policy choices. At least one
28 workshop shall be held in each county in the region. For counties
29 with a population greater than 500,000, at least three workshops
30 shall be held. Each workshop, to the extent practicable, shall
31 include urban simulation computer modeling to create visual
32 representations of the sustainable communities strategy and the
33 alternative planning strategy.

34 (iv) Preparation and circulation of a draft sustainable
35 communities strategy and an alternative planning strategy, if one
36 is prepared, not less than 55 days before adoption of a final regional
37 transportation plan.

38 (v) At least three public hearings on the draft sustainable
39 communities strategy in the regional transportation plan and
40 alternative planning strategy, if one is prepared. If the metropolitan

1 transportation organization consists of a single county, at least two
2 public hearings shall be held. To the maximum extent feasible, the
3 hearings shall be in different parts of the region to maximize the
4 opportunity for participation by members of the public throughout
5 the region.

6 (vi) A process for enabling members of the public to provide a
7 single request to receive notices, information, and updates.

8 (F) In preparing a sustainable communities strategy, the
9 metropolitan planning organization shall consider spheres of
10 influence that have been adopted by the local agency formation
11 commissions within its region.

12 (G) Prior to adopting a sustainable communities strategy, the
13 metropolitan planning organization shall quantify the reduction in
14 greenhouse gas emissions projected to be achieved by the
15 sustainable communities strategy and set forth the difference, if
16 any, between the amount of that reduction and the target for the
17 region established by the state board.

18 (H) If the sustainable communities strategy, prepared in
19 compliance with subparagraph (B) or (C), is unable to reduce
20 greenhouse gas emissions to achieve the greenhouse gas emission
21 reduction targets established by the state board, the metropolitan
22 planning organization shall prepare an alternative planning strategy
23 to the sustainable communities strategy showing how those
24 greenhouse gas emission targets would be achieved through
25 alternative development patterns, infrastructure, or additional
26 transportation measures or policies. The alternative planning
27 strategy shall be a separate document from the regional
28 transportation plan, but it may be adopted concurrently with the
29 regional transportation plan. In preparing the alternative planning
30 strategy, the metropolitan planning organization:

31 (i) Shall identify the principal impediments to achieving the
32 targets within the sustainable communities strategy.

33 (ii) May include an alternative development pattern for the
34 region pursuant to subparagraphs (B) to (F), inclusive.

35 (iii) Shall describe how the greenhouse gas emission reduction
36 targets would be achieved by the alternative planning strategy, and
37 why the development pattern, measures, and policies in the
38 alternative planning strategy are the most practicable choices for
39 achievement of the greenhouse gas emission reduction targets.

1 (iv) An alternative development pattern set forth in the
2 alternative planning strategy shall comply with Part 450 of Title
3 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,
4 except to the extent that compliance will prevent achievement of
5 the greenhouse gas emission reduction targets approved by the
6 state board.

7 (v) For purposes of the California Environmental Quality Act
8 (Division 13 (commencing with Section 21000) of the Public
9 Resources Code), an alternative planning strategy shall not
10 constitute a land use plan, policy, or regulation, and the
11 inconsistency of a project with an alternative planning strategy
12 shall not be a consideration in determining whether a project may
13 have an environmental effect.

14 (I) (i) Prior to starting the public participation process adopted
15 pursuant to subparagraph (E) of paragraph (2) of subdivision (b)
16 of Section 65080, the metropolitan planning organization shall
17 submit a description to the state board of the technical methodology
18 it intends to use to estimate the greenhouse gas emissions from its
19 sustainable communities strategy and, if appropriate, its alternative
20 planning strategy. The state board shall respond to the metropolitan
21 planning organization in a timely manner with written comments
22 about the technical methodology, including specifically describing
23 any aspects of that methodology it concludes will not yield accurate
24 estimates of greenhouse gas emissions, and suggested remedies.
25 The metropolitan planning organization is encouraged to work
26 with the state board until the state board concludes that the
27 technical methodology operates accurately.

28 (ii) After adoption, a metropolitan planning organization shall
29 submit a sustainable communities strategy or an alternative
30 planning strategy, if one has been adopted, to the state board for
31 review, including the quantification of the greenhouse gas emission
32 reductions the strategy would achieve and a description of the
33 technical methodology used to obtain that result. Review by the
34 state board shall be limited to acceptance or rejection of the
35 metropolitan planning organization's determination that the strategy
36 submitted would, if implemented, achieve the greenhouse gas
37 emission reduction targets established by the state board. The state
38 board shall complete its review within 60 days.

39 (iii) If the state board determines that the strategy submitted
40 would not, if implemented, achieve the greenhouse gas emission

1 reduction targets, the metropolitan planning organization shall
2 revise its strategy or adopt an alternative planning strategy, if not
3 previously adopted, and submit the strategy for review pursuant
4 to clause (ii). At a minimum, the metropolitan planning
5 organization must obtain state board acceptance that an alternative
6 planning strategy would, if implemented, achieve the greenhouse
7 gas emission reduction targets established for that region by the
8 state board.

9 (J) Neither a sustainable communities strategy nor an alternative
10 planning strategy regulates the use of land, nor, except as provided
11 by subparagraph (I), shall either one be subject to any state
12 approval. Nothing in a sustainable communities strategy shall be
13 interpreted as superseding the exercise of the land use authority
14 of cities and counties within the region. Nothing in this section
15 shall be interpreted to limit the state board's authority under any
16 other provision of law. Nothing in this section shall be interpreted
17 to authorize the abrogation of any vested right whether created by
18 statute or by common law. Nothing in this section shall require a
19 city's or county's land use policies and regulations, including its
20 general plan, to be consistent with the regional transportation plan
21 or an alternative planning strategy. Nothing in this section requires
22 a metropolitan planning organization to approve a sustainable
23 communities strategy that would be inconsistent with Part 450 of
24 Title 23 of, or Part 93 of Title 40 of, the Code of Federal
25 Regulations and any administrative guidance under those
26 regulations. Nothing in this section relieves a public or private
27 entity or any person from compliance with any other local, state,
28 or federal law.

29 (K) Nothing in this section requires projects programmed for
30 funding on or before December 31, 2011, to be subject to the
31 provisions of this paragraph if they (i) are contained in the 2007
32 or 2009 Federal Statewide Transportation Improvement Program,
33 (ii) are funded pursuant to Chapter 12.49 (commencing with
34 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically
35 listed in a ballot measure prior to December 31, 2008, approving
36 a sales tax increase for transportation projects. Nothing in this
37 section shall require a transportation sales tax authority to change
38 the funding allocations approved by the voters for categories of
39 transportation projects in a sales tax measure adopted prior to
40 December 31, 2010. For purposes of this subparagraph, a

1 transportation sales tax authority is a district, as defined in Section
2 7252 of the Revenue and Taxation Code, that is authorized to
3 impose a sales tax for transportation purposes.

4 (L) A metropolitan planning organization, or a regional
5 transportation planning agency not within a metropolitan planning
6 organization, that is required to adopt a regional transportation
7 plan not less than every five years, may elect to adopt the plan not
8 less than every four years. This election shall be made by the board
9 of directors of the metropolitan planning organization or regional
10 transportation planning agency no later than June 1, 2009, or
11 thereafter 54 months prior to the statutory deadline for the adoption
12 of housing elements for the local jurisdictions within the region,
13 after a public hearing at which comments are accepted from
14 members of the public and representatives of cities and counties
15 within the region covered by the metropolitan planning
16 organization or regional transportation planning agency. Notice
17 of the public hearing shall be given to the general public and by
18 mail to cities and counties within the region no later than 30 days
19 prior to the date of the public hearing. Notice of election shall be
20 promptly given to the Department of Housing and Community
21 Development. The metropolitan planning organization or the
22 regional transportation planning agency shall complete its next
23 regional transportation plan within three years of the notice of
24 election.

25 (M) Two or more of the metropolitan planning organizations
26 for Fresno County, Kern County, Kings County, Madera County,
27 Merced County, San Joaquin County, Stanislaus County, and
28 Tulare County may work together to develop and adopt
29 multiregional goals and policies that may address interregional
30 land use, transportation, economic, air quality, and climate
31 relationships. The participating metropolitan planning organizations
32 may also develop a multiregional sustainable communities strategy,
33 to the extent consistent with federal law, or an alternative planning
34 strategy for adoption by the metropolitan planning organizations.
35 Each participating metropolitan planning organization shall
36 consider any adopted multiregional goals and policies in the
37 development of a sustainable communities strategy and, if
38 applicable, an alternative planning strategy for its region.

39 (3) An action element that describes the programs and actions
40 necessary to implement the plan and assigns implementation

responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall consider congestion management programming activities carried out within the region.

(4) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain 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 in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm to market and interconnectivity transportation needs. The

1 metropolitan planning organization or county transportation
2 agency, whichever entity is appropriate, shall also consider
3 financial assistance for counties to address countywide service
4 responsibilities in counties that contribute towards the greenhouse
5 gas emission reduction targets by implementing policies for growth
6 to occur within their cities.

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

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

26 SEC. 5. Section 65080.01 is added to the Government Code,
27 to read:

28 65080.01. The following definitions apply to terms used in
29 Section 65080:

30 (a) "Resource areas" include (1) all publicly owned parks and
31 open space; (2) open space or habitat areas protected by natural
32 community conservation plans, habitat conservation plans, and
33 other adopted natural resource protection plans; (3) habitat for
34 species identified as candidate, fully protected, sensitive, or species
35 of special status by local, state, or federal agencies or protected
36 by the federal Endangered Species Act of 1973, the California
37 Endangered Species Act, or the Native Plant Protection Act; (4)
38 lands subject to conservation or agricultural easements for
39 conservation or agricultural purposes by local governments, special
40 districts, or nonprofit 501(c)(3) organizations, areas of the state

1 designated by the State Mining and Geology Board as areas of
2 statewide or regional significance pursuant to Section 2790 of the
3 Public Resources Code, and lands under Williamson Act contracts;
4 (5) areas designated for open-space or agricultural uses in adopted
5 open-space elements or agricultural elements of the local general
6 plan or by local ordinance; (6) areas containing biological resources
7 as described in Appendix G of the CEQA Guidelines that may be
8 significantly affected by the sustainable communities strategy or
9 the alternative planning strategy; and (7) an area subject to flooding
10 where a development project would not, at the time of development
11 in the judgment of the agency, meet the requirements of the
12 National Flood Insurance Program or where the area is subject to
13 more protective provisions of state law or local ordinance.

14 (b) “Farmland” means farmland that is outside all existing city
15 spheres of influence or city limits as of January 1, 2008, and is
16 one of the following:

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

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

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

26 (d) “Consistent” shall have the same meaning ~~is that term as~~
27 ~~use as that term is used~~ in Section 134 of Title 23 of the United
28 States Code.

29 (e) “Internally consistent” means that the contents of the
30 elements of the regional transportation plan must be consistent
31 with each other.

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

34 65400. (a) After the legislative body has adopted all or part
35 of a general plan, the planning agency shall do both of the
36 following:

37 (1) Investigate and make recommendations to the legislative
38 body regarding reasonable and practical means for implementing
39 the general plan or element of the general plan, so that it will serve
40 as an effective guide for orderly growth and development,

1 preservation and conservation of open-space land and natural
2 resources, and the efficient expenditure of public funds relating to
3 the subjects addressed in the general plan.

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

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

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

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

28 (C) The degree to which its approved general plan complies
29 with the guidelines developed and adopted pursuant to Section
30 65040.2 and the date of the last revision to the general plan.

31 (b) If a court finds, upon a motion to that effect, that a city,
32 county, or city and county failed to submit, within 60 days of the
33 deadline established in this section, the housing element portion
34 of the report required pursuant to subparagraph (B) of paragraph
35 (2) of subdivision (a) that substantially complies with the
36 requirements of this section, the court shall issue an order or
37 judgment compelling compliance with this section within 60 days.
38 If the city, county, or city and county fails to comply with the
39 court's order within 60 days, the plaintiff or petitioner may move
40 for sanctions, and the court may, upon that motion, grant

1 appropriate sanctions. The court shall retain jurisdiction to ensure
2 that its order or judgment is carried out. If the court determines
3 that its order or judgment is not carried out within 60 days, the
4 court may issue further orders as provided by law to ensure that
5 the purposes and policies of this section are fulfilled. This
6 subdivision applies to proceedings initiated on or after the first
7 day of October following the adoption of forms and definitions by
8 the Department of Housing and Community Development pursuant
9 to paragraph (2) of subdivision (a), but no sooner than six months
10 following that adoption.

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

13 65583. The housing element shall consist of an identification
14 and analysis of existing and projected housing needs and a
15 statement of goals, policies, quantified objectives, financial
16 resources, and scheduled programs for the preservation,
17 improvement, and development of housing. The housing element
18 shall identify adequate sites for housing, including rental housing,
19 factory-built housing, mobilehomes, and emergency shelters, and
20 shall make adequate provision for the existing and projected needs
21 of all economic segments of the community. The element shall
22 contain all of the following:

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

26 (1) An analysis of population and employment trends and
27 documentation of projections and a quantification of the locality's
28 existing and projected housing needs for all income levels,
29 including extremely low income households, as defined in
30 subdivision (b) of Section 50105 and Section 50106 of the Health
31 and Safety Code. These existing and projected needs shall include
32 the locality's share of the regional housing need in accordance
33 with Section 65584. Local agencies shall calculate the subset of
34 very low income households allotted under Section 65584 that
35 qualify as extremely low income households. The local agency
36 may either use available census data to calculate the percentage
37 of very low income households that qualify as extremely low
38 income households or presume that 50 percent of the very low
39 income households qualify as extremely low income households.
40 The number of extremely low income households and very low

1 income households shall equal the jurisdiction's allocation of very
2 low income households pursuant to Section 65584.

3 (2) An analysis and documentation of household characteristics,
4 including level of payment compared to ability to pay, housing
5 characteristics, including overcrowding, and housing stock
6 condition.

7 (3) An inventory of land suitable for residential development,
8 including vacant sites and sites having potential for redevelopment,
9 and an analysis of the relationship of zoning and public facilities
10 and services to these sites.

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

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

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

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

40 (iv) The provision of onsite management.

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

3 (vi) The length of stay.

4 (vii) Lighting.

5 (viii) Security during hours that the emergency shelter is in
6 operation.

7 (B) The permit processing, development, and management
8 standards applied under this paragraph shall not be deemed to be
9 discretionary acts within the meaning of the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code).

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

20 (D) A local government with an existing ordinance or ordinances
21 that comply with this paragraph shall not be required to take
22 additional action to identify zones for emergency shelters. The
23 housing element must only describe how existing ordinances,
24 policies, and standards are consistent with the requirements of this
25 paragraph.

26 (5) An analysis of potential and actual governmental constraints
27 upon the maintenance, improvement, or development of housing
28 for all income levels, including the types of housing identified in
29 paragraph (1) of subdivision (c), and for persons with disabilities
30 as identified in the analysis pursuant to paragraph (7), including
31 land use controls, building codes and their enforcement, site
32 improvements, fees and other exactions required of developers,
33 and local processing and permit procedures. The analysis shall
34 also demonstrate local efforts to remove governmental constraints
35 that hinder the locality from meeting its share of the regional
36 housing need in accordance with Section 65584 and from meeting
37 the need for housing for persons with disabilities, supportive
38 housing, transitional housing, and emergency shelters identified
39 pursuant to paragraph (7). Transitional housing and supportive
40 housing shall be considered a residential use of property, and shall

1 be subject only to those restrictions that apply to other residential
2 dwellings of the same type in the same zone.

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

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

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

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

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

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

8 (C) The analysis shall identify public and private nonprofit
9 corporations known to the local government which have legal and
10 managerial capacity to acquire and manage these housing
11 developments.

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

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

27 (2) It is recognized that the total housing needs identified
28 pursuant to subdivision (a) may exceed available resources and
29 the community's ability to satisfy this need within the content of
30 the general plan requirements outlined in Article 5 (commencing
31 with Section 65300). Under these circumstances, the quantified
32 objectives need not be identical to the total housing needs. The
33 quantified objectives shall establish the maximum number of
34 housing units by income category, including extremely low income,
35 that can be constructed, rehabilitated, and conserved over a
36 five-year time period.

37 (c) A program which sets forth a schedule of actions during the
38 planning period, each with a timeline for implementation, which
39 may recognize that certain programs are ongoing, such that there
40 will be beneficial impacts of the programs within the planning

1 period, that the local government is undertaking or intends to
2 undertake to implement the policies and achieve the goals and
3 objectives of the housing element through the administration of
4 land use and development controls, the provision of regulatory
5 concessions and incentives, and the utilization of appropriate
6 federal and state financing and subsidy programs when available
7 and the utilization of moneys in a low- and moderate-income
8 housing fund of an agency if the locality has established a
9 redevelopment project area pursuant to the Community
10 Redevelopment Law (Division 24 (commencing with Section
11 33000) of the Health and Safety Code). In order to make adequate
12 provision for the housing needs of all economic segments of the
13 community, the program shall do all of the following:

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

28 (A) Where the inventory of sites, pursuant to paragraph (3) of
29 subdivision (a), does not identify adequate sites to accommodate
30 the need for groups of all household income levels pursuant to
31 Section 65584, rezoning of those sites, including adoption of
32 minimum density and development standards, for jurisdictions
33 with an eight-year housing element planning period pursuant to
34 Section 65588, shall be completed no later than three years after
35 either the date the housing element is adopted pursuant to
36 subdivision (f) of Section 65585 or the date that is 90 days after
37 receipt of comments from the department pursuant to subdivision
38 (b) of Section 65585, whichever is earlier, unless the deadline is
39 extended pursuant to subdivision (f). Notwithstanding the
40 foregoing, for a local government that fails to adopt a housing

1 element within 120 days of the statutory deadline in Section 65588
2 for adoption of the housing element, rezoning of those sites,
3 including adoption of minimum density and development standards,
4 shall be completed no later than three years and 120 days from the
5 statutory deadline in Section 65588 for adoption of the housing
6 element.

7 (B) Where the inventory of sites, pursuant to paragraph (3) of
8 subdivision (a), does not identify adequate sites to accommodate
9 the need for groups of all household income levels pursuant to
10 Section 65584, the program shall identify sites that can be
11 developed for housing within the planning period pursuant to
12 subdivision (h) of Section 65583.2. The identification of sites shall
13 include all components specified in subdivision (b) of Section
14 65583.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (4) The aggregate capacity claimed by the participating
2 jurisdictions in their housing elements shall not exceed the actual
3 capacity of the shelter.

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

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

12 (2) Any housing element or housing element amendment
13 prepared pursuant to subdivision (e) of Section 65588 or Section
14 65584.02, when the city, county, or city and county fails to submit
15 the first draft to the department before the due date specified in
16 Section 65588 or 65584.02.

17 (f) The deadline for completing required rezoning pursuant to
18 subparagraph (A) of paragraph (1) of subdivision (c) shall be
19 extended by one year if the local government has completed the
20 rezoning at densities sufficient to accommodate at least 75 percent
21 of the sites for low- and very low income households and if the
22 legislative body at the conclusion of a public hearing determines,
23 based upon substantial evidence, that any of the following
24 circumstances exist:

25 (1) The local government has been unable to complete the
26 rezoning because of the action or inaction beyond the control of
27 the local government of any other state federal or local agency.

28 (2) The local government is unable to complete the rezoning
29 because of infrastructure deficiencies due to fiscal or regulatory
30 constraints.

31 (3) The local government must undertake a major revision to
32 its general plan in order to accommodate the housing related
33 policies of a sustainable communities strategy or an alternative
34 planning strategy adopted pursuant to Section 65080.

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

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph; and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act. Design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

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

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

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

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If

1 the court determines that its order or judgment has not been carried
2 out within 60 days, the court may issue further orders to ensure
3 that the purposes and policies of this subdivision are fulfilled. In
4 any such action, the city, county, or city and county shall bear the
5 burden of proof.

6 (4) For purposes of this subdivision, “housing development
7 project” means a project to construct residential units for which
8 the project developer provides sufficient legal commitments to the
9 appropriate local agency to ensure the continued availability and
10 use of at least 49 percent of the housing units for very low, low-,
11 and moderate-income households with an affordable housing cost
12 or affordable rent, as defined in Section 50052.5 or 50053 of the
13 Health and Safety Code, respectively, for the period required by
14 the applicable financing.

15 (h) An action to enforce the program actions of the housing
16 element shall be brought pursuant to Section 1085 of the Code of
17 Civil Procedure.

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

20 65584.01. (a) For the fourth and subsequent revision of the
21 housing element pursuant to Section 65588, the department, in
22 consultation with each council of governments, where applicable,
23 shall determine the existing and projected need for housing for
24 each region in the following manner:

25 (b) The department’s determination shall be based upon
26 population projections produced by the Department of Finance
27 and regional population forecasts used in preparing regional
28 transportation plans, in consultation with each council of
29 governments. If the total regional population forecast for the
30 planning period, developed by the council of governments and
31 used for the preparation of the regional transportation plan, is
32 within a range of 3 percent of the total regional population forecast
33 for the planning period over the same time period by the
34 Department of Finance, then the population forecast developed by
35 the council of governments shall be the basis from which the
36 department determines the existing and projected need for housing
37 in the region. If the difference between the total population growth
38 projected by the council of governments and the total population
39 growth projected for the region by the Department of Finance is
40 greater than 3 percent, then the department and the council of

1 governments shall meet to discuss variances in methodology used
2 for population projections and seek agreement on a population
3 projection for the region to be used as a basis for determining the
4 existing and projected housing need for the region. If no agreement
5 is reached, then the population projection for the region shall be
6 the population projection for the region prepared by the Department
7 of Finance as may be modified by the department as a result of
8 discussions with the council of governments.

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

17 (A) Anticipated household growth associated with projected
18 population increases.

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

20 (C) The rate of household formation, or headship rates, based
21 on age, gender, ethnicity, or other established demographic
22 measures.

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

26 (E) Other characteristics of the composition of the projected
27 population.

28 (F) The relationship between jobs and housing, including any
29 imbalance between jobs and housing.

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

38 (d) (1) After consultation with the council of governments, the
39 department shall make a determination of the region's existing
40 and projected housing need based upon the assumptions and

1 methodology determined pursuant to subdivision (c). The region's
2 existing and projected housing need shall reflect the achievement
3 of a feasible balance between jobs and housing within the region
4 using the regional employment projections in the applicable
5 regional transportation plan. Within 30 days following notice of
6 the determination from the department, the council of governments
7 may file an objection to the department's determination of the
8 region's existing and projected housing need with the department.

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

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

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

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

33 SEC. 9. Section 65584.02 of the Government Code is amended
34 to read:

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

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. This request shall include all of the following:

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

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

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

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request

1 of the council of governments, the determination for the region
2 shall be made pursuant to Sections 65584 and 65584.01.

3 SEC. 10. Section 65584.04 of the Government Code is amended
4 to read:

5 65584.04. (a) At least two years prior to a scheduled revision
6 required by Section 65588, each council of governments, or
7 delegate subregion as applicable, shall develop a proposed
8 methodology for distributing the existing and projected regional
9 housing need to cities, counties, and cities and counties within the
10 region or within the subregion, where applicable pursuant to this
11 section. The methodology shall be consistent with the objectives
12 listed in subdivision (d) of Section 65584.

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

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

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

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

35 (c) Public participation and access shall be required in the
36 development of the methodology and in the process of drafting
37 and adoption of the allocation of the regional housing needs.
38 Participation by organizations other than local jurisdictions and
39 councils of governments shall be solicited in a diligent effort to
40 achieve public participation of all economic segments of the

1 community. The proposed methodology, along with any relevant
2 underlying data and assumptions, and an explanation of how
3 information about local government conditions gathered pursuant
4 to subdivision (b) has been used to develop the proposed
5 methodology, and how each of the factors listed in subdivision (d)
6 is incorporated into the methodology, shall be distributed to all
7 cities, counties, any subregions, and members of the public who
8 have made a written request for the proposed methodology. The
9 council of governments, or delegate subregion, as applicable, shall
10 conduct at least one public hearing to receive oral and written
11 comments on the proposed methodology.

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

17 (1) Each member jurisdiction's existing and projected jobs and
18 housing relationship.

19 (2) The opportunities and constraints to development of
20 additional housing in each member jurisdiction, including all of
21 the following:

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

28 (B) The availability of land suitable for urban development or
29 for conversion to residential use, the availability of underutilized
30 land, and opportunities for infill development and increased
31 residential densities. The council of governments may not limit
32 its consideration of suitable housing sites or land suitable for urban
33 development to existing zoning ordinances and land use restrictions
34 of a locality, but shall consider the potential for increased
35 residential development under alternative zoning ordinances and
36 land use restrictions. The determination of available land suitable
37 for urban development may exclude lands where the Federal
38 Emergency Management Agency (FEMA) or the Department of
39 Water Resources has determined that the flood management

1 infrastructure designed to protect that land is not adequate to avoid
2 the risk of flooding.

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

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

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

13 (4) The market demand for housing.

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

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

20 (7) High-housing cost burdens.

21 (8) The housing needs of farmworkers.

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

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

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

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

36 (g) In addition to the factors identified pursuant to subdivision
37 (d), the council of governments, or delegate subregion, as
38 applicable, shall identify any existing local, regional, or state
39 incentives, such as a priority for funding or other incentives
40 available to those local governments that are willing to accept a

1 higher share than proposed in the draft allocation to those local
2 governments by the council of governments or delegate subregion
3 pursuant to Section 65584.05.

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

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

19 (2) The final allocation plan shall ensure that the total regional
20 housing need, by income category, as determined under Section
21 65584, is maintained, and that each jurisdiction in the region
22 receive an allocation of units for low- and very low income
23 households.

24 (3) The resolution approving the final housing need allocation
25 plan shall demonstrate that the plan is consistent with the
26 sustainable communities strategy in the regional transportation
27 plan.

28 SEC. 11. Section 65587 of the Government Code is amended
29 to read:

30 65587. (a) Each city, county, or city and county shall bring
31 its housing element, as required by subdivision (c) of Section
32 65302, into conformity with the requirements of this article on or
33 before October 1, 1981, and the deadlines set by Section 65588.
34 Except as specifically provided in subdivision (b) of Section 65361,
35 the Director of Planning and Research shall not grant an extension
36 of time from these requirements.

37 (b) Any action brought by any interested party to review the
38 conformity with the provisions of this article of any housing
39 element or portion thereof or revision thereto shall be brought
40 pursuant to Section 1085 of the Code of Civil Procedure; the

1 court's review of compliance with the provisions of this article
2 shall extend to whether the housing element or portion thereof or
3 revision thereto substantially complies with the requirements of
4 this article.

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

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

35 (2) Any interested person may bring an action to compel
36 compliance with the deadlines and requirements of paragraphs (1),
37 (2), and (3) of subdivision (c) of Section 65583. The action shall
38 be brought pursuant to Section 1085 of the Code of Civil
39 Procedure. An action may be brought pursuant to the notice and
40 accrual provisions of subdivision (d) of Section 65009. In any such

1 action, the city, county, or city and county shall bear the burden
2 of proof.

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

5 65588. (a) Each local government shall review its housing
6 element as frequently as appropriate to evaluate all of the
7 following:

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

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

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

14 (b) Except as provided in paragraph (7) of subdivision (e), the
15 housing element shall be revised as appropriate, but not less than
16 every eight years, *to reflect the results of this periodic review*, by
17 those local governments that are located within a region covered
18 by (1) a metropolitan planning organization in a region classified
19 as nonattainment for one or more pollutants regulated by the federal
20 Clean Air Act or (2) a metropolitan planning organization or
21 regional transportation planning agency that is required, or has
22 elected pursuant to subparagraph (L) of paragraph (2) of
23 subdivision (b) of Section 65080, to adopt a regional transportation
24 plan not less than every four years, *except that a local government*
25 *that does not adopt a housing element within 120 days of the*
26 *statutory deadline for adoption of the housing element shall revise*
27 *its housing element as appropriate, but not less than every four*
28 *years*. The housing element shall be revised, as appropriate, but
29 not less than every five years by those local governments that are
30 located within a region covered by a metropolitan planning
31 organization or regional transportation planning agency that is
32 required to adopt a regional transportation plan not less than every
33 five years, to reflect the results of this periodic review, ~~except that~~
34 ~~a local government that does not adopt a housing element within~~
35 ~~120 days of the statutory deadline for adoption of the housing~~
36 ~~element shall revise its housing element, as appropriate, but not~~
37 ~~less than every four years~~. Nothing in this section shall be construed
38 to excuse the obligations of the local government to adopt a revised
39 housing element no later than the date specified in this section.

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

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

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

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

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

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

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

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

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

36 (3) Local governments within the regional jurisdiction of the
37 Council of Fresno County Governments, the Kern County Council
38 of Governments, and the Sacramento Area Council of
39 Governments: June 30, 2002, for the third revision, and June 30,
40 2008, for the fourth revision.

1 (4) Local governments within the regional jurisdiction of the
2 Association of Monterey Bay Area Governments: December 31,
3 2002, for the third revision, and June 30, 2009, for the fourth
4 revision.

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

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

10 (7) (A) All local governments within a metropolitan planning
11 organization in a region classified as nonattainment for one or
12 more pollutants regulated by the federal Clean Air Act (42 U.S.C.
13 Sec. 7506), except those within the regional jurisdiction of the San
14 Diego Association of Governments, shall adopt the fifth revision
15 of the housing element no later than 18 months after adoption of
16 the first regional transportation plan to be adopted after September
17 30, 2010.

18 (B) All local governments within the regional jurisdiction of
19 the San Diego Association of Governments shall adopt their fifth
20 revision no more than five years from the fourth revision and their
21 sixth revision no later than 18 months after adoption of the first
22 regional transportation plan to be adopted after the fifth revision
23 due date.

24 (C) All local governments within the regional jurisdiction of a
25 metropolitan planning organization or a regional transportation
26 planning agency that has made an election pursuant to
27 subparagraph (L) of paragraph (2) of subdivision (b) of Section
28 65080 shall be subject to the eight-year planning period pursuant
29 to subdivision (b) of Section 65588 and shall adopt its next housing
30 element 18 months after adoption of the first regional transportation
31 plan following the election.

32 (f) For purposes of this article, “planning period” shall be the
33 time period for periodic revision of the housing element pursuant
34 to this section.

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

37 21061.3. “Infill site” means a site in an urbanized area that
38 meets either of the following criteria:

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

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

6 (2) No parcel within the site has been created within the past
7 10 years unless the parcel was created as a result of the plan of a
8 redevelopment agency.

9 (b) The site has been previously developed for qualified urban
10 uses.

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

13
14 CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE
15 COMMUNITIES STRATEGY
16

17 21155. (a) This chapter applies only to a transit priority project
18 that is consistent with the general use designation, density, building
19 intensity, and applicable policies specified for the project area in
20 either a sustainable communities strategy or an alternative planning
21 strategy, for which the State Air Resources Board, pursuant to
22 subparagraph (H) of paragraph (2) of subdivision (b) of Section
23 65080 of the Government Code, has accepted a metropolitan
24 planning organization's determination that the sustainable
25 communities strategy or the alternative planning strategy would,
26 if implemented, achieve the greenhouse gas emission reduction
27 targets.

28 (b) For purposes of this chapter, a transit priority project shall
29 (1) contain at least 50 percent residential use, based on total
30 building square footage and, if the project contains between 26
31 percent and 50 percent nonresidential uses, a floor area ratio of
32 not less than 0.75; (2) provide a minimum net density of at least
33 20 dwelling units per acre; and (3) be within one-half mile of a
34 major transit stop or high-quality transit corridor included in a
35 regional transportation plan. A major transit stop is as defined in
36 Section 21064.3, except that, for purposes of this section, it also
37 includes major transit stops that are included in the applicable
38 regional transportation plan. For purposes of this section, a
39 high-quality transit corridor means a corridor with fixed route bus
40 service with service intervals no longer than 15 minutes during

1 peak commute hours. A project shall be considered to be within
2 one-half mile of a major transit stop or high-quality transit corridor
3 if all parcels within the project have no more than 25 percent of
4 their area farther than one-half mile from the stop or corridor and
5 if not more than 10 percent of the residential units or 100 units,
6 whichever is less, in the project are farther than one-half mile from
7 the stop or corridor.

8 21155.1. If the legislative body finds, after conducting a public
9 hearing, that a transit priority project meets all of the requirements
10 of subdivisions (a) and (b) and one of the requirements of
11 subdivision (c), the transit priority project is declared to be a
12 sustainable communities project and shall be exempt from this
13 division.

14 (a) The transit priority project complies with all of the following
15 environmental criteria:

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

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

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

36 (C) For the purposes of this paragraph:

37 (i) “Riparian areas” means those areas transitional between
38 terrestrial and aquatic ecosystems and that are distinguished by
39 gradients in biophysical conditions, ecological processes, and biota.
40 A riparian area is an area through which surface and subsurface

1 hydrology connect waterbodies with their adjacent uplands. A
2 riparian area includes those portions of terrestrial ecosystems that
3 significantly influence exchanges of energy and matter with aquatic
4 ecosystems. A riparian area is adjacent to perennial, intermittent,
5 and ephemeral streams, lakes, and estuarine-marine shorelines.

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

9 (iii) Habitat of “significant value” includes wildlife habitat of
10 national, statewide, regional, or local importance; habitat for
11 species protected by the federal Endangered Species Act of 1973
12 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species
13 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
14 of the Fish and Game Code), or the Native Plant Protection Act
15 (Chapter 10 (commencing with Section 1900) of Division 2 of the
16 Fish and Game Code); habitat identified as candidate, fully
17 protected, sensitive, or species of special status by local, state, or
18 federal agencies; or habitat essential to the movement of resident
19 or migratory wildlife.

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

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

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

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

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

39 (6) The transit priority project site is not subject to any of the
40 following:

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

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

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

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

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

18 (7) The transit priority project site is not located on developed
19 open space.

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

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

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

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

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

34 (8) The buildings in the transit priority project are 15 percent
35 more energy efficient than required by Chapter 6 of Title 24 of the
36 California Code of Regulations and the buildings and landscaping
37 are designed to achieve 25 percent less water usage than the
38 average household use in the region.

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

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

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

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

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

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

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

15 (7) The transit priority project is located within one-half mile
16 of a rail transit station or a ferry terminal included in a regional
17 transportation plan or within one-quarter mile of a high-quality
18 transit corridor included in a regional transportation plan.

19 (c) The transit priority project meets at least one of the following
20 three criteria:

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

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

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

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

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

3 21155.2. (a) A transit priority project that has incorporated all
4 feasible mitigation measures, performance standards, or criteria
5 set forth in the prior applicable environmental impact reports and
6 adopted in findings made pursuant to Section 21081, shall be
7 eligible for either the provisions of subdivision (b) or (c).

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

11 (1) An initial study shall be prepared to identify all significant
12 or potentially significant impacts of the transit priority project,
13 other than those which do not need to be reviewed pursuant to
14 Section 21159.28 based on substantial evidence in light of the
15 whole record. The initial study shall identify any cumulative effects
16 that have been adequately addressed and mitigated pursuant to the
17 requirements of this division in prior applicable certified
18 environmental impact reports. Where the lead agency determines
19 that a cumulative effect has been adequately addressed and
20 mitigated, that cumulative effect shall not be treated as
21 cumulatively considerable for the purposes of this subdivision.

22 (2) The sustainable communities environmental assessment
23 shall contain measures that either avoid or mitigate to a level of
24 insignificance all potentially significant or significant effects of
25 the project required to be identified in the initial study.

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

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

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

36 (A) All potentially significant or significant effects required to
37 be identified in the initial study have been identified and analyzed.

38 (B) With respect to each significant effect on the environment
39 required to be identified in the initial study, either of the following
40 apply:

1 (i) Changes or alterations have been required in or incorporated
2 into the project that avoid or mitigate the significant effects to a
3 level of insignificance.

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

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

12 (7) The lead agency's decision to review and approve a transit
13 priority project with a sustainable communities environmental
14 assessment shall be reviewed under the substantial evidence
15 standard.

16 (c) A transit priority project that satisfies the requirements of
17 subdivision (a) may be reviewed by an environmental impact report
18 that complies with all of the following:

19 (1) An initial study shall be prepared to identify all significant
20 or potentially significant effects of the transit priority project other
21 than those that do not need to be reviewed pursuant to Section
22 21159.28 based upon substantial evidence in light of the whole
23 record. The initial study shall identify any cumulative effects that
24 have been adequately addressed and mitigated pursuant to the
25 requirements of this division in prior applicable certified
26 environmental impact reports. Where the lead agency determines
27 that a cumulative effect has been adequately addressed and
28 mitigated, that cumulative effect shall not be treated as
29 cumulatively considerable for the purposes of this subdivision.

30 (2) An environmental impact report prepared pursuant to this
31 subdivision need only address the significant or potentially
32 significant effects of the transit priority project on the environment
33 identified pursuant to paragraph (1). It is not required to analyze
34 off-site alternatives to the transit priority project. It shall otherwise
35 comply with the requirements of this division.

36 21155.3. (a) The legislative body of a local jurisdiction may
37 adopt traffic mitigation measures that would apply to transit priority
38 projects. These measures shall be adopted or amended after a public
39 hearing and may include requirements for the installation of traffic
40 control improvements, street or road improvements, and

1 contributions to road improvement or transit funds, transit passes
2 for future residents, or other measures that will avoid or mitigate
3 the traffic impacts of those transit priority projects.

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

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

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

17 SEC. 15. Section 21159.28 is added to the Public Resources
18 Code, to read:

19 21159.28. (a) If a residential or mixed-use residential project
20 is consistent with the use designation, density, building intensity,
21 and applicable policies specified for the project area in either a
22 sustainable communities strategy or an alternative planning
23 strategy, for which the State Air Resources Board pursuant to
24 subparagraph (I) of paragraph (2) of subdivision (b) of Section
25 65080 of the Government Code has accepted the metropolitan
26 planning organization's determination that the sustainable
27 communities strategy or the alternative planning strategy would,
28 if implemented, achieve the greenhouse gas emission reduction
29 targets and if the project incorporates the mitigation measures
30 required by an applicable prior environmental document, then any
31 findings or other determinations for an exemption, a negative
32 declaration, a mitigated negative declaration, a sustainable
33 communities environmental assessment, an environmental impact
34 report, or addenda prepared or adopted for the project pursuant to
35 this division shall not be required to reference, describe, or discuss
36 (1) growth inducing impacts; or (2) any project specific or
37 cumulative impacts from cars and light-duty truck trips generated
38 by the project on global warming or the regional transportation
39 network.

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

6 (c) “Regional transportation network,” for purposes of this
7 section, means all existing and proposed ~~transportation~~ *state*
8 *transportation system* improvements that were included in the
9 transportation and air quality conformity modeling, including
10 congestion modeling, for the final regional transportation plan
11 adopted by the metropolitan planning organization, but shall not
12 include local streets and roads. Nothing in the foregoing relieves
13 any project from a requirement to comply with any conditions,
14 exactions, or fees for the mitigation of the project’s impacts on the
15 *structure, safety, or operations of the* regional transportation
16 network; *or* local streets and roads; ~~or the state highway system.~~

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

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