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## **SENATE BILL**

**No. 375**

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

February 21, 2007

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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 commission to consult with various agencies in this regard, and 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
- 6 transportation sector is the single largest contributor of greenhouse
- 7 gases of any sector.

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

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

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

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

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

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

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

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

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

17 14522.1. (a) (1) The commission, in consultation with the  
18 department and the State Air Resources Board, shall maintain  
19 guidelines for travel demand models used in the development of  
20 regional transportation plans by federally designated metropolitan  
21 planning organizations.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and

1 pragmatic objective and policy statements. The objective and policy  
2 statements shall be consistent with the funding estimates of the  
3 financial element. The policy element of transportation planning  
4 agencies with populations that exceed 200,000 persons may  
5 quantify a set of indicators including, but not limited to, all of the  
6 following:

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

10 (B) Measures of road and bridge maintenance and rehabilitation  
11 needs, including, but not limited to, roadway pavement and bridge  
12 conditions.

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

16 (i) Single occupant vehicle.

17 (ii) Multiple occupant vehicle or carpool.

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

19 (iv) Walking.

20 (v) Bicycling.

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

24 (E) Measures of equity and accessibility, including, but not  
25 limited to, percentage of the population served by frequent and  
26 reliable public transit, with a breakdown by income bracket, and  
27 percentage of all jobs accessible by frequent and reliable public  
28 transit service, with a breakdown by income bracket.

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

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

34 (A) No later than September 30, 2010, the State Air Resources  
35 Board shall provide each affected region with greenhouse gas  
36 emission reduction targets for the automobile and light truck sector  
37 for 2020 and 2035, respectively.

38 (i) No later than January 31, 2009, the state board shall appoint  
39 a Regional Targets Advisory Committee to recommend factors to  
40 be considered and methodologies to be used for setting greenhouse

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

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

29 (iii) In establishing these targets, the state board shall take into  
30 account greenhouse gas emission reductions that will be achieved  
31 by improved vehicle emission standards, changes in fuel  
32 composition, and other measures it has approved that will reduce  
33 greenhouse gas emissions in the affected regions, and prospective  
34 measures the state board plans to adopt to reduce greenhouse gas  
35 emissions from other greenhouse gas emission sources as that term  
36 is defined in subdivision (i) of Section 38505 of the Health and  
37 Safety Code and consistent with the regulations promulgated  
38 pursuant to the California Global Warming Solutions Act of 2006  
39 (Division 12.5 (commencing with Section 38500) of the Health  
40 and Safety Code).

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

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

15 (B) Each metropolitan planning organization shall prepare a  
16 sustainable communities strategy, subject to the requirements of  
17 Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of  
18 Federal Regulations, including the requirement to utilize the most  
19 recent planning assumptions considering local general plans and  
20 other factors. The sustainable communities strategy shall (i)  
21 identify the general location of uses, residential densities, and  
22 building intensities within the region; (ii) identify areas within the  
23 region sufficient to house all the population of the region, including  
24 all economic segments of the population, over the course of the  
25 planning period of the regional transportation plan taking into  
26 account net migration into the region, population growth, household  
27 formation and employment growth; (iii) identify areas within the  
28 region sufficient to house an eight-year projection of the regional  
29 housing need for the region pursuant to Section 65584; (iv) identify  
30 a transportation network to service the transportation needs of the  
31 region; (v) gather and consider the best practically available  
32 scientific information regarding resource areas and farmland in  
33 the region as defined in subdivisions (a) and (b) of Section  
34 65080.01; (vi) consider the state housing goals specified in Sections  
35 65580 and 65581; (vii) set forth a forecasted development pattern  
36 for the region, which, when integrated with the transportation  
37 network, and other transportation measures and policies, will  
38 reduce the greenhouse gas emissions from automobiles and light  
39 trucks to achieve, if there is a feasible way to do so, the greenhouse  
40 gas emission reduction targets approved by the state board; and

(viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii).

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

(D) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the

1 meeting shall be sent to the clerk of the board of supervisors and  
2 to each city clerk. The purpose of the meeting shall be to present  
3 a draft of the sustainable communities strategy to the members of  
4 the board of supervisors and the city council members in that  
5 county and to solicit and consider their input and recommendations.

6 (E) Each metropolitan planning organization shall adopt a public  
7 participation plan, for development of the sustainable communities  
8 strategy and an alternative planning strategy, if any, that includes  
9 all of the following:

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

18 (ii) Consultation with congestion management agencies,  
19 transportation agencies, and transportation commissions.

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

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

33 (v) At least three public hearings on the draft sustainable  
34 communities strategy in the regional transportation plan and  
35 alternative planning strategy, if one is prepared. If the metropolitan  
36 transportation organization consists of a single county, at least two  
37 public hearings shall be held. To the maximum extent feasible, the  
38 hearings shall be in different parts of the region to maximize the  
39 opportunity for participation by members of the public throughout  
40 the region.

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

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

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

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

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

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

30 (iii) Shall describe how the greenhouse gas emission reduction  
31 targets would be achieved by the alternative planning strategy, and  
32 why the development pattern, measures, and policies in the  
33 alternative planning strategy are the most practicable choices for  
34 achievement of the greenhouse gas emission reduction targets.

35 (iv) An alternative development pattern set forth in the  
36 alternative planning strategy shall comply with Part 450 of Title  
37 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,  
38 except to the extent that compliance will prevent achievement of  
39 the greenhouse gas emission reduction targets approved by the  
40 state board.

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

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

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

33 (iii) If the state board determines that the strategy submitted  
34 would not, if implemented, achieve the greenhouse gas emission  
35 reduction targets, the metropolitan planning organization shall  
36 revise its strategy or adopt an alternative planning strategy, if not  
37 previously adopted, and submit the strategy for review pursuant  
38 to clause (ii). At a minimum, the metropolitan planning  
39 organization must obtain state board acceptance that an alternative  
40 planning strategy would, if implemented, achieve the greenhouse

1 gas emission reduction targets established for that region by the  
2 state board.

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

23 (K) Nothing in this section requires projects programmed for  
24 funding on or before December 31, 2011, to be subject to the  
25 provisions of this paragraph if they (i) are contained in the 2007  
26 or 2009 Federal Statewide Transportation Improvement Program,  
27 (ii) are funded pursuant to Chapter 12.49 (commencing with  
28 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically  
29 listed in a ballot measure prior to December 31, 2008, approving  
30 a sales tax increase for transportation projects. Nothing in this  
31 section shall require a transportation sales tax authority to change  
32 the funding allocations approved by the voters for categories of  
33 transportation projects in a sales tax measure adopted prior to  
34 December 31, 2010. For purposes of this subparagraph, a  
35 transportation sales tax authority is a district, as defined in Section  
36 7252 of the Revenue and Taxation Code, that is authorized to  
37 impose a sales tax for transportation purposes.

38 (L) A metropolitan planning organization, or a regional  
39 transportation planning agency not within a metropolitan planning  
40 organization, that is required to adopt a regional transportation

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

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

33 (3) An action element that describes the programs and actions  
34 necessary to implement the plan and assigns implementation  
35 responsibilities. The action element may describe all transportation  
36 projects proposed for development during the 20-year or greater  
37 life of the plan. The action element shall consider congestion  
38 management programming activities carried out within the region.

39 (4) (A) A financial element that summarizes the cost of plan  
40 implementation constrained by a realistic projection of available

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

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

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

28 (C) The metropolitan planning organization or county  
29 transportation agency, whichever entity is appropriate, shall  
30 consider financial incentives for cities and counties that have  
31 resource areas or farmland, as defined in Section 65080.01, for  
32 the purposes of, for example, transportation investments for the  
33 preservation and safety of the city street or county road system  
34 and farm to market and interconnectivity transportation needs. The  
35 metropolitan planning organization or county transportation  
36 agency, whichever entity is appropriate, shall also consider  
37 financial assistance for counties to address countywide service  
38 responsibilities in counties that contribute towards the greenhouse  
39 gas emission reduction targets by implementing policies for growth  
40 to occur within their cities.

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

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

20 SEC. 5. Section 65080.01 is added to the Government Code,  
21 to read:

22 65080.01. The following definitions apply to terms used in  
23 Section 65080:

24 (a) "Resource areas" include (1) all publicly owned parks and  
25 open space; (2) open space or habitat areas protected by natural  
26 community conservation plans, habitat conservation plans, and  
27 other adopted natural resource protection plans; (3) habitat for  
28 species identified as candidate, fully protected, sensitive, or species  
29 of special status by local, state, or federal agencies or protected  
30 by the federal Endangered Species Act of 1973, the California  
31 Endangered Species Act, or the Native Plant Protection Act; (4)  
32 lands subject to conservation or agricultural easements for  
33 conservation or agricultural purposes by local governments, special  
34 districts, or nonprofit 501(c)(3) organizations, areas of the state  
35 designated by the State Mining and Geology Board as areas of  
36 statewide or regional significance pursuant to Section 2790 of the  
37 Public Resources Code, and lands under Williamson Act contracts;  
38 (5) areas designated for open-space or agricultural uses in adopted  
39 open-space elements or agricultural elements of the local general  
40 plan or by local ordinance; (6) areas containing biological resources

1 as described in Appendix G of the CEQA Guidelines that may be  
2 significantly affected by the sustainable communities strategy or  
3 the alternative planning strategy; and (7) an area subject to flooding  
4 where a development project would not, at the time of development  
5 in the judgment of the agency, meet the requirements of the  
6 National Flood Insurance Program or where the area is subject to  
7 more protective provisions of state law or local ordinance.

8 (b) "Farmland" means farmland that is outside all existing city  
9 spheres of influence or city limits as of January 1, 2008, and is  
10 one of the following:

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

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

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

20 (d) "Consistent" shall have the same meaning as that term is  
21 used in Section 134 of Title 23 of the United States Code.

22 (e) "Internally consistent" means that the contents of the  
23 elements of the regional transportation plan must be consistent  
24 with each other.

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

27 65400. (a) After the legislative body has adopted all or part  
28 of a general plan, the planning agency shall do both of the  
29 following:

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

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

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

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

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

21 (C) The degree to which its approved general plan complies  
22 with the guidelines developed and adopted pursuant to Section  
23 65040.2 and the date of the last revision to the general plan.

24 (b) If a court finds, upon a motion to that effect, that a city,  
25 county, or city and county failed to submit, within 60 days of the  
26 deadline established in this section, the housing element portion  
27 of the report required pursuant to subparagraph (B) of paragraph  
28 (2) of subdivision (a) that substantially complies with the  
29 requirements of this section, the court shall issue an order or  
30 judgment compelling compliance with this section within 60 days.  
31 If the city, county, or city and county fails to comply with the  
32 court's order within 60 days, the plaintiff or petitioner may move  
33 for sanctions, and the court may, upon that motion, grant  
34 appropriate sanctions. The court shall retain jurisdiction to ensure  
35 that its order or judgment is carried out. If the court determines  
36 that its order or judgment is not carried out within 60 days, the  
37 court may issue further orders as provided by law to ensure that  
38 the purposes and policies of this section are fulfilled. This  
39 subdivision applies to proceedings initiated on or after the first  
40 day of October following the adoption of forms and definitions by

1 the Department of Housing and Community Development pursuant  
2 to paragraph (2) of subdivision (a), but no sooner than six months  
3 following that adoption.

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

6 65583. The housing element shall consist of an identification  
7 and analysis of existing and projected housing needs and a  
8 statement of goals, policies, quantified objectives, financial  
9 resources, and scheduled programs for the preservation,  
10 improvement, and development of housing. The housing element  
11 shall identify adequate sites for housing, including rental housing,  
12 factory-built housing, mobilehomes, and emergency shelters, and  
13 shall make adequate provision for the existing and projected needs  
14 of all economic segments of the community. The element shall  
15 contain all of the following:

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

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

36 (2) An analysis and documentation of household characteristics,  
37 including level of payment compared to ability to pay, housing  
38 characteristics, including overcrowding, and housing stock  
39 condition.

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

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

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

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

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

34 (iv) The provision of onsite management.

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

37 (vi) The length of stay.

38 (vii) Lighting.

39 (viii) Security during hours that the emergency shelter is in  
40 operation.

1 (B) The permit processing, development, and management  
2 standards applied under this paragraph shall not be deemed to be  
3 discretionary acts within the meaning of the California  
4 Environmental Quality Act (Division 13 (commencing with Section  
5 21000) of the Public Resources Code).

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

14 (D) A local government with an existing ordinance or ordinances  
15 that comply with this paragraph shall not be required to take  
16 additional action to identify zones for emergency shelters. The  
17 housing element must only describe how existing ordinances,  
18 policies, and standards are consistent with the requirements of this  
19 paragraph.

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

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

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

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

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

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

35 (B) The analysis shall estimate the total cost of producing new  
36 rental housing that is comparable in size and rent levels, to replace  
37 the units that could change from low-income use, and an estimated  
38 cost of preserving the assisted housing developments. This cost  
39 analysis for replacement housing may be done aggregately for

1 each five-year period and does not have to contain a  
2 project-by-project cost estimate.

3 (C) The analysis shall identify public and private nonprofit  
4 corporations known to the local government which have legal and  
5 managerial capacity to acquire and manage these housing  
6 developments.

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

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

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

32 (c) A program which sets forth a schedule of actions during the  
33 planning period, each with a timeline for implementation, which  
34 may recognize that certain programs are ongoing, such that there  
35 will be beneficial impacts of the programs within the planning  
36 period, that the local government is undertaking or intends to  
37 undertake to implement the policies and achieve the goals and  
38 objectives of the housing element through the administration of  
39 land use and development controls, the provision of regulatory  
40 concessions and incentives, and the utilization of appropriate

1 federal and state financing and subsidy programs when available  
2 and the utilization of moneys in a low- and moderate-income  
3 housing fund of an agency if the locality has established a  
4 redevelopment project area pursuant to the Community  
5 Redevelopment Law (Division 24 (commencing with Section  
6 33000) of the Health and Safety Code). In order to make adequate  
7 provision for the housing needs of all economic segments of the  
8 community, the program shall do all of the following:

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

23 (A) Where the inventory of sites, pursuant to paragraph (3) of  
24 subdivision (a), does not identify adequate sites to accommodate  
25 the need for groups of all household income levels pursuant to  
26 Section 65584, rezoning of those sites, including adoption of  
27 minimum density and development standards, for jurisdictions  
28 with an eight-year housing element planning period pursuant to  
29 Section 65588, shall be completed no later than three years after  
30 either the date the housing element is adopted pursuant to  
31 subdivision (f) of Section 65585 or the date that is 90 days after  
32 receipt of comments from the department pursuant to subdivision  
33 (b) of Section 65585, whichever is earlier, unless the deadline is  
34 extended pursuant to subdivision (f). Notwithstanding the  
35 foregoing, for a local government that fails to adopt a housing  
36 element within 120 days of the statutory deadline in Section 65588  
37 for adoption of the housing element, rezoning of those sites,  
38 including adoption of minimum density and development standards,  
39 shall be completed no later than three years and 120 days from the

1 statutory deadline in Section 65588 for adoption of the housing  
2 element.

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

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

19 (2) Assist in the development of adequate housing to meet the  
20 needs of extremely low, very low, low-, and moderate-income  
21 households.

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

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

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

36 (6) Preserve for lower income households the assisted housing  
37 developments identified pursuant to paragraph (9) of subdivision  
38 (a). The program for preservation of the assisted housing  
39 developments shall utilize, to the extent necessary, all available  
40 federal, state, and local financing and subsidy programs identified

1 in paragraph (9) of subdivision (a), except where a community has  
2 other urgent needs for which alternative funding sources are not  
3 available. The program may include strategies that involve local  
4 regulation and technical assistance.

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

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

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

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

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

29 (B) The jurisdiction's contribution to the facility for both the  
30 development and ongoing operation and management of the  
31 facility.

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

34 (4) The aggregate capacity claimed by the participating  
35 jurisdictions in their housing elements shall not exceed the actual  
36 capacity of the shelter.

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

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

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

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

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

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

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

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

1 locally imposed discretionary permit, or impose a condition that  
2 would render the project infeasible, if the housing development  
3 project (A) is proposed to be located on a site required to be  
4 rezoned pursuant to the program action required by that  
5 subparagraph; and (B) complies with applicable, objective general  
6 plan and zoning standards and criteria, including design review  
7 standards, described in the program action required by that  
8 subparagraph. Any subdivision of sites shall be subject to the  
9 Subdivision Map Act. Design review shall not constitute a “project”  
10 for purposes of Division 13 (commencing with Section 21000) of  
11 the Public Resources Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (d) (1) After consultation with the council of governments, the  
34 department shall make a determination of the region's existing  
35 and projected housing need based upon the assumptions and  
36 methodology determined pursuant to subdivision (c). The region's  
37 existing and projected housing need shall reflect the achievement  
38 of a feasible balance between jobs and housing within the region  
39 using the regional employment projections in the applicable  
40 regional transportation plan. Within 30 days following notice of

1 the determination from the department, the council of governments  
2 may file an objection to the department's determination of the  
3 region's existing and projected housing need with the department.

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

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

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

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

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

30 65584.02. (a) For the fourth and subsequent revisions of the  
31 housing element pursuant to Section 65588, the existing and  
32 projected need for housing may be determined for each region by  
33 the department as follows, as an alternative to the process pursuant  
34 to Section 65584.01:

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

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

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

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

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

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

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

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

37 SEC. 10. Section 65584.04 of the Government Code is amended  
38 to read:

39 65584.04. (a) At least two years prior to a scheduled revision  
40 required by Section 65588, each council of governments, or

1 delegate subregion as applicable, shall develop a proposed  
2 methodology for distributing the existing and projected regional  
3 housing need to cities, counties, and cities and counties within the  
4 region or within the subregion, where applicable pursuant to this  
5 section. The methodology shall be consistent with the objectives  
6 listed in subdivision (d) of Section 65584.

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

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

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

24 (4) If the council of governments fails to conduct a survey  
25 pursuant to this subdivision, a city, county, or city and county may  
26 submit information related to the items listed in subdivision (d)  
27 prior to the public comment period provided for in subdivision  
28 (c).

29 (c) Public participation and access shall be required in the  
30 development of the methodology and in the process of drafting  
31 and adoption of the allocation of the regional housing needs.  
32 Participation by organizations other than local jurisdictions and  
33 councils of governments shall be solicited in a diligent effort to  
34 achieve public participation of all economic segments of the  
35 community. The proposed methodology, along with any relevant  
36 underlying data and assumptions, and an explanation of how  
37 information about local government conditions gathered pursuant  
38 to subdivision (b) has been used to develop the proposed  
39 methodology, and how each of the factors listed in subdivision (d)  
40 is incorporated into the methodology, shall be distributed to all

1 cities, counties, any subregions, and members of the public who  
2 have made a written request for the proposed methodology. The  
3 council of governments, or delegate subregion, as applicable, shall  
4 conduct at least one public hearing to receive oral and written  
5 comments on the proposed methodology.

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

11 (1) Each member jurisdiction's existing and projected jobs and  
12 housing relationship.

13 (2) The opportunities and constraints to development of  
14 additional housing in each member jurisdiction, including all of  
15 the following:

16 (A) Lack of capacity for sewer or water service due to federal  
17 or state laws, regulations or regulatory actions, or supply and  
18 distribution decisions made by a sewer or water service provider  
19 other than the local jurisdiction that preclude the jurisdiction from  
20 providing necessary infrastructure for additional development  
21 during the planning period.

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

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

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

3 (3) The distribution of household growth assumed for purposes  
4 of a comparable period of regional transportation plans and  
5 opportunities to maximize the use of public transportation and  
6 existing transportation infrastructure.

7 (4) The market demand for housing.

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

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

14 (7) High-housing cost burdens.

15 (8) The housing needs of farmworkers.

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

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

20 (e) The council of governments, or delegate subregion, as  
21 applicable, shall explain in writing how each of the factors  
22 described in subdivision (d) was incorporated into the methodology  
23 and how the methodology is consistent with subdivision (d) of  
24 Section 65584. The methodology may include numerical weighting.

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

30 (g) In addition to the factors identified pursuant to subdivision  
31 (d), the council of governments, or delegate subregion, as  
32 applicable, shall identify any existing local, regional, or state  
33 incentives, such as a priority for funding or other incentives  
34 available to those local governments that are willing to accept a  
35 higher share than proposed in the draft allocation to those local  
36 governments by the council of governments or delegate subregion  
37 pursuant to Section 65584.05.

38 (h) Following the conclusion of the 60-day public comment  
39 period described in subdivision (c) on the proposed allocation  
40 methodology, and after making any revisions deemed appropriate

1 by the council of governments, or delegate subregion, as applicable,  
2 as a result of comments received during the public comment period,  
3 each council of governments, or delegate subregion, as applicable,  
4 shall adopt a final regional, or subregional, housing need allocation  
5 methodology and provide notice of the adoption of the  
6 methodology to the jurisdictions within the region, or delegate  
7 subregion as applicable, and to the department.

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

13 (2) The final allocation plan shall ensure that the total regional  
14 housing need, by income category, as determined under Section  
15 65584, is maintained, and that each jurisdiction in the region  
16 receive an allocation of units for low- and very low income  
17 households.

18 (3) The resolution approving the final housing need allocation  
19 plan shall demonstrate that the plan is consistent with the  
20 sustainable communities strategy in the regional transportation  
21 plan.

22 SEC. 11. Section 65587 of the Government Code is amended  
23 to read:

24 65587. (a) Each city, county, or city and county shall bring  
25 its housing element, as required by subdivision (c) of Section  
26 65302, into conformity with the requirements of this article on or  
27 before October 1, 1981, and the deadlines set by Section 65588.  
28 Except as specifically provided in subdivision (b) of Section 65361,  
29 the Director of Planning and Research shall not grant an extension  
30 of time from these requirements.

31 (b) Any action brought by any interested party to review the  
32 conformity with the provisions of this article of any housing  
33 element or portion thereof or revision thereto shall be brought  
34 pursuant to Section 1085 of the Code of Civil Procedure; the  
35 court's review of compliance with the provisions of this article  
36 shall extend to whether the housing element or portion thereof or  
37 revision thereto substantially complies with the requirements of  
38 this article.

39 (c) If a court finds that an action of a city, county, or city and  
40 county, which is required to be consistent with its general plan,

1 does not comply with its housing element, the city, county, or city  
2 and county shall bring its action into compliance within 60 days.  
3 However, the court shall retain jurisdiction throughout the period  
4 for compliance to enforce its decision. Upon the court's  
5 determination that the 60-day period for compliance would place  
6 an undue hardship on the city, county, or city and county, the court  
7 may extend the time period for compliance by an additional 60  
8 days.

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

29 (2) Any interested person may bring an action to compel  
30 compliance with the deadlines and requirements of paragraphs (1),  
31 (2), and (3) of subdivision (c) of Section 65583. The action shall  
32 be brought pursuant to Section 1085 of the Code of Civil  
33 Procedure. An action may be brought pursuant to the notice and  
34 accrual provisions of subdivision (d) of Section 65009. In any such  
35 action, the city, county, or city and county shall bear the burden  
36 of proof.

37 SEC. 12. Section 65588 of the Government Code is amended  
38 to read:

1     65588. (a) Each local government shall review its housing  
2 element as frequently as appropriate to evaluate all of the  
3 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) Local governments within the regional jurisdiction of the  
30 Council of Fresno County Governments, the Kern County Council  
31 of Governments, and the Sacramento Area Council of  
32 Governments: June 30, 2002, for the third revision, and June 30,  
33 2008, for the fourth revision.

34 (4) Local governments within the regional jurisdiction of the  
35 Association of Monterey Bay Area Governments: December 31,  
36 2002, for the third revision, and June 30, 2009, for the fourth  
37 revision.

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

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

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

11 (B) All local governments within the regional jurisdiction of  
12 the San Diego Association of Governments shall adopt their fifth  
13 revision no more than five years from the fourth revision and their  
14 sixth revision no later than 18 months after adoption of the first  
15 regional transportation plan to be adopted after the fifth revision  
16 due date.

17 (C) All local governments within the regional jurisdiction of a  
18 metropolitan planning organization or a regional transportation  
19 planning agency that has made an election pursuant to  
20 subparagraph (L) of paragraph (2) of subdivision (b) of Section  
21 65080 shall be subject to the eight-year planning period pursuant  
22 to subdivision (b) of Section 65588 and shall adopt its next housing  
23 element 18 months after adoption of the first regional transportation  
24 plan following the election.

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

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

30 21061.3. “Infill site” means a site in an urbanized area that  
31 meets either of the following criteria:

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

34 (1) The site is immediately adjacent to parcels that are developed  
35 with qualified urban uses, or at least 75 percent of the perimeter  
36 of the site adjoins parcels that are developed with qualified urban  
37 uses, and the remaining 25 percent of the site adjoins parcels that  
38 have previously been developed for qualified urban uses.

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

4 (b) The site has been previously developed for qualified urban  
5 uses.

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

8  
9 CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE  
10 COMMUNITIES STRATEGY  
11

12 21155. (a) This chapter applies only to a transit priority project  
13 that is consistent with the general use designation, density, building  
14 intensity, and applicable policies specified for the project area in  
15 either a sustainable communities strategy or an alternative planning  
16 strategy, for which the State Air Resources Board, pursuant to  
17 subparagraph (H) of paragraph (2) of subdivision (b) of Section  
18 65080 of the Government Code, has accepted a metropolitan  
19 planning organization's determination that the sustainable  
20 communities strategy or the alternative planning strategy would,  
21 if implemented, achieve the greenhouse gas emission reduction  
22 targets.

23 (b) For purposes of this chapter, a transit priority project shall  
24 (1) contain at least 50 percent residential use, based on total  
25 building square footage and, if the project contains between 26  
26 percent and 50 percent nonresidential uses, a floor area ratio of  
27 not less than 0.75; (2) provide a minimum net density of at least  
28 20 dwelling units per acre; and (3) be within one-half mile of a  
29 major transit stop or high-quality transit corridor included in a  
30 regional transportation plan. A major transit stop is as defined in  
31 Section 21064.3, except that, for purposes of this section, it also  
32 includes major transit stops that are included in the applicable  
33 regional transportation plan. For purposes of this section, a  
34 high-quality transit corridor means a corridor with fixed route bus  
35 service with service intervals no longer than 15 minutes during  
36 peak commute hours. A project shall be considered to be within  
37 one-half mile of a major transit stop or high-quality transit corridor  
38 if all parcels within the project have no more than 25 percent of  
39 their area farther than one-half mile from the stop or corridor and  
40 if not more than 10 percent of the residential units or 100 units,

1 whichever is less, in the project are farther than one-half mile from  
2 the stop or corridor.

3 21155.1. If the legislative body finds, after conducting a public  
4 hearing, that a transit priority project meets all of the requirements  
5 of subdivisions (a) and (b) and one of the requirements of  
6 subdivision (c), the transit priority project is declared to be a  
7 sustainable communities project and shall be exempt from this  
8 division.

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

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

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

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

31 (C) For the purposes of this paragraph:

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

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

4 (iii) Habitat of “significant value” includes wildlife habitat of  
5 national, statewide, regional, or local importance; habitat for  
6 species protected by the federal Endangered Species Act of 1973  
7 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species  
8 Act (Chapter 1.5 (commencing with Section 2050) of Division 3  
9 of the Fish and Game Code), or the Native Plant Protection Act  
10 (Chapter 10 (commencing with Section 1900) of Division 2 of the  
11 Fish and Game Code); habitat identified as candidate, fully  
12 protected, sensitive, or species of special status by local, state, or  
13 federal agencies; or habitat essential to the movement of resident  
14 or migratory wildlife.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (7) The transit priority project is located within one-half mile  
12 of a rail transit station or a ferry terminal included in a regional  
13 transportation plan or within one-quarter mile of a high-quality  
14 transit corridor included in a regional transportation plan.

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

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

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

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

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

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

38 21155.2. (a) A transit priority project that has incorporated all  
39 feasible mitigation measures, performance standards, or criteria  
40 set forth in the prior applicable environmental impact reports and

1 adopted in findings made pursuant to Section 21081, shall be  
2 eligible for either the provisions of subdivision (b) or (c).

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

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

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

21 (3) A draft of the sustainable communities environmental  
22 assessment shall be circulated for public comment for a period of  
23 not less than 30 days. Notice shall be provided in the same manner  
24 as required for an environmental impact report pursuant to Section  
25 21092.

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

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

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

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

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

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

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

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

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

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

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

33 21155.3. (a) The legislative body of a local jurisdiction may  
34 adopt traffic mitigation measures that would apply to transit priority  
35 projects. These measures shall be adopted or amended after a public  
36 hearing and may include requirements for the installation of traffic  
37 control improvements, street or road improvements, and  
38 contributions to road improvement or transit funds, transit passes  
39 for future residents, or other measures that will avoid or mitigate  
40 the traffic impacts of those transit priority projects.

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

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

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

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

16 21159.28. (a) If a residential or mixed-use residential project  
17 is consistent with the use designation, density, building intensity,  
18 and applicable policies specified for the project area in either a  
19 sustainable communities strategy or an alternative planning  
20 strategy, for which the State Air Resources Board pursuant to  
21 subparagraph (I) of paragraph (2) of subdivision (b) of Section  
22 65080 of the Government Code has accepted the metropolitan  
23 planning organization's determination that the sustainable  
24 communities strategy or the alternative planning strategy would,  
25 if implemented, achieve the greenhouse gas emission reduction  
26 targets and if the project incorporates the mitigation measures  
27 required by an applicable prior environmental document, then any  
28 findings or other determinations for an exemption, a negative  
29 declaration, a mitigated negative declaration, a sustainable  
30 communities environmental assessment, an environmental impact  
31 report, or addenda prepared or adopted for the project pursuant to  
32 this division shall not be required to reference, describe, or discuss  
33 (1) growth inducing impacts; or (2) any project specific or  
34 cumulative impacts from cars and light-duty truck trips generated  
35 by the project on global warming or the regional transportation  
36 network.

37 (b) Any environmental impact report prepared for a project  
38 described in subdivision (a) shall not be required to reference,  
39 describe, or discuss a reduced residential density alternative to

1 address the effects of car and light-duty truck trips generated by  
2 the project.

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

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

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