

Introduced by Senator Simitian

February 22, 2007

An act to amend Sections 65089.6, 65302, 66484, and 66484.3 of the Government Code, to amend Section 99150 of the Public Utilities Code, to amend Section 75.9 of the Streets and Highways Code, and to amend Sections 21101 and 35701 of the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 640, as introduced, Simitian. Circulation and transportation element.

Existing law requires a general plan to include a statement of development policies and, among other elements, a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would rename the circulation element the circulation and transportation element and make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65089.6 of the Government Code is
- 2 amended to read:
- 3 65089.6. Failure to complete or implement a congestion
- 4 management program shall not give rise to a cause of action against

1 a city or county for failing to conform with its general plan, unless
2 the city or county incorporates the congestion management program
3 into the circulation *and transportation* element of its general plan.

4 SEC. 2. Section 65302 of the Government Code is amended
5 to read:

6 65302. The general plan shall consist of a statement of
7 development policies and shall include a diagram or diagrams and
8 text setting forth objectives, principles, standards, and plan
9 proposals. The plan shall include the following elements:

10 (a) A land use element that designates the proposed general
11 distribution and general location and extent of the uses of the land
12 for housing, business, industry, open space, including agriculture,
13 natural resources, recreation, and enjoyment of scenic beauty,
14 education, public buildings and grounds, solid and liquid waste
15 disposal facilities, and other categories of public and private uses
16 of land. The land use element shall include a statement of the
17 standards of population density and building intensity
18 recommended for the various districts and other territory covered
19 by the plan. The land use element shall identify areas covered by
20 the plan which are subject to flooding and shall be reviewed
21 annually with respect to those areas. The land use element shall
22 also do both of the following:

23 (1) Designate in a land use category that provides for timber
24 production those parcels of real property zoned for timberland
25 production pursuant to the California Timberland Productivity Act
26 of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1
27 of Division 1 of Title 5.

28 (2) Consider the impact of new growth on military readiness
29 activities carried out on military bases, installations, and operating
30 and training areas, when proposing zoning ordinances or
31 designating land uses covered by the general plan for land, or other
32 territory adjacent to military facilities, or underlying designated
33 military aviation routes and airspace.

34 (A) In determining the impact of new growth on military
35 readiness activities, information provided by military facilities
36 shall be considered. Cities and counties shall address military
37 impacts based on information from the military and other sources.

38 (B) The following definitions govern this paragraph:

39 (i) “Military readiness activities” mean all of the following:

1 (I) Training, support, and operations that prepare the men and
2 women of the military for combat.

3 (II) Operation, maintenance, and security of any military
4 installation.

5 (III) Testing of military equipment, vehicles, weapons, and
6 sensors for proper operation or suitability for combat use.

7 (ii) “Military installation” means a base, camp, post, station,
8 yard, center, homeport facility for any ship, or other activity under
9 the jurisdiction of the United States Department of Defense as
10 defined in paragraph (1) of subsection (e) of Section 2687 of Title
11 10 of the United States Code.

12 (b) A circulation *and transportation* element consisting of the
13 general location and extent of existing and proposed major
14 thoroughfares, transportation routes, terminals, any military airports
15 and ports, and other local public utilities and facilities, all correlated
16 with the land use element of the plan.

17 (c) A housing element as provided in Article 10.6 (commencing
18 with Section 65580).

19 (d) A conservation element for the conservation, development,
20 and utilization of natural resources including water and its
21 hydraulic force, forests, soils, rivers and other waters, harbors,
22 fisheries, wildlife, minerals, and other natural resources. The
23 conservation element shall consider the effect of development
24 within the jurisdiction, as described in the land use element, on
25 natural resources located on public lands, including military
26 installations. That portion of the conservation element including
27 waters shall be developed in coordination with any countywide
28 water agency and with all district and city agencies that have
29 developed, served, controlled or conserved water for any purpose
30 for the county or city for which the plan is prepared. Coordination
31 shall include the discussion and evaluation of any water supply
32 and demand information described in Section 65352.5, if that
33 information has been submitted by the water agency to the city or
34 county. The conservation element may also cover the following:

35 (1) The reclamation of land and waters.

36 (2) Prevention and control of the pollution of streams and other
37 waters.

38 (3) Regulation of the use of land in stream channels and other
39 areas required for the accomplishment of the conservation plan.

1 (4) Prevention, control, and correction of the erosion of soils,
2 beaches, and shores.

3 (5) Protection of watersheds.

4 (6) The location, quantity and quality of the rock, sand and
5 gravel resources.

6 (7) Flood control.

7 (e) An open-space element as provided in Article 10.5
8 (commencing with Section 65560).

9 (f) A noise element which shall identify and appraise noise
10 problems in the community. The noise element shall recognize the
11 guidelines established by the Office of Noise Control in the State
12 Department of Health Services and shall analyze and quantify, to
13 the extent practicable, as determined by the legislative body,
14 current and projected noise levels for all of the following sources:

15 (1) Highways and freeways.

16 (2) Primary arterials and major local streets.

17 (3) Passenger and freight ~~on-line~~ *online* railroad operations and
18 ground rapid transit systems.

19 (4) Commercial, general aviation, heliport, helistop, and military
20 airport operations, aircraft overflights, jet engine test stands, and
21 all other ground facilities and maintenance functions related to
22 airport operation.

23 (5) Local industrial plants, including, but not limited to, railroad
24 classification yards.

25 (6) Other ground stationary noise sources, including, but not
26 limited to, military installations, identified by local agencies as
27 contributing to the community noise environment.

28 Noise contours shall be shown for all of these sources and stated
29 in terms of community noise equivalent level (CNEL) or day-night
30 average level (L_{dn}). The noise contours shall be prepared on the
31 basis of noise monitoring or following generally accepted noise
32 modeling techniques for the various sources identified in
33 paragraphs (1) to (6), inclusive.

34 The noise contours shall be used as a guide for establishing a
35 pattern of land uses in the land use element that minimizes the
36 exposure of community residents to excessive noise.

37 The noise element shall include implementation measures and
38 possible solutions that address existing and foreseeable noise
39 problems, if any. The adopted noise element shall serve as a
40 guideline for compliance with the state’s noise insulation standards.

1 (g) A safety element for the protection of the community from
2 any unreasonable risks associated with the effects of seismically
3 induced surface rupture, ground shaking, ground failure, tsunami,
4 seiche, and dam failure; slope instability leading to mudslides and
5 landslides; subsidence, liquefaction and other seismic hazards
6 identified pursuant to Chapter 7.8 (commencing with Section 2690)
7 of Division 2 of the Public Resources Code, and other geologic
8 hazards known to the legislative body; flooding; and wild land and
9 urban fires. The safety element shall include mapping of known
10 seismic and other geologic hazards. It shall also address evacuation
11 routes, military installations, peakload water supply requirements,
12 and minimum road widths and clearances around structures, as
13 those items relate to identified fire and geologic hazards.

14 (1) Prior to the periodic review of its general plan and prior to
15 preparing or revising its safety element, each city and county shall
16 consult the ~~California Geological Survey~~ *Division of Mines and*
17 *Geology* of the Department of Conservation and the Office of
18 Emergency Services for the purpose of including information
19 known by and available to the department and the office required
20 by this subdivision.

21 (2) To the extent that a county's safety element is sufficiently
22 detailed and contains appropriate policies and programs for
23 adoption by a city, a city may adopt that portion of the county's
24 safety element that pertains to the city's planning area in
25 satisfaction of the requirement imposed by this subdivision.

26 SEC. 3. Section 66484 of the Government Code is amended
27 to read:

28 66484. (a) A local ordinance may require the payment of a
29 fee as a condition of approval of a final map or as a condition of
30 issuing a building permit for purposes of defraying the actual or
31 estimated cost of constructing bridges over waterways, railways,
32 freeways, and canyons, or constructing major thoroughfares. The
33 ordinance may require payment of fees pursuant to this section if
34 all of the following requirements are satisfied:

35 (1) The ordinance refers to the circulation *and transportation*
36 element of the general plan and, in the case of bridges, to the
37 transportation or flood control provisions thereof which identify
38 railways, freeways, streams, or canyons for which bridge crossings
39 are required on the general plan or local roads and in the case of
40 major thoroughfares, to the provisions of the circulation *and*

1 *transportation* element which identify those major thoroughfares
2 whose primary purpose is to carry through traffic and provide a
3 network connecting to the state highway system, if the circulation
4 *and transportation* element, transportation or flood control
5 provisions have been adopted by the local agency 30 days prior
6 to the filing of a map or application for a building permit.

7 (2) The ordinance provides that there will be a public hearing
8 held by the governing body for each area benefited. Notice shall
9 be given pursuant to Section 65091 and shall include preliminary
10 information related to the boundaries of the area of benefit,
11 estimated cost, and the method of fee apportionment. The area of
12 benefit may include land or improvements in addition to the land
13 or improvements which are the subject of any map or building
14 permit application considered at the proceedings.

15 (3) The ordinance provides that at the public hearing, the
16 boundaries of the area of benefit, the costs, whether actual or
17 estimated, and a fair method of allocation of costs to the area of
18 benefit and fee apportionment are established. The method of fee
19 apportionment, in the case of major thoroughfares, shall not provide
20 for higher fees on land which abuts the proposed improvement
21 except where the abutting property is provided direct usable access
22 to the major thoroughfare. A description of the boundaries of the
23 area of benefit, the costs, whether actual or estimated, and the
24 method of fee apportionment established at the hearing shall be
25 incorporated in a resolution of the governing body, a certified copy
26 of which shall be recorded by the governing body conducting the
27 hearing with the recorder of the county in which the area of benefit
28 is located. The apportioned fees shall be applicable to all property
29 within the area of benefit and shall be payable as a condition of
30 approval of a final map or as a condition of issuing a building
31 permit for the property or portions of the property. Where the area
32 of benefit includes lands not subject to the payment of fees pursuant
33 to this section, the governing agency shall make provision for
34 payment of the share of improvement costs apportioned to those
35 lands from other sources.

36 (4) The ordinance provides that payment of fees shall not be
37 required unless the major thoroughfares are in addition to, or a
38 reconstruction of, any existing major thoroughfares serving the
39 area at the time of the adoption of the boundaries of the area of
40 benefit.

1 (5) The ordinance provides that payment of fees shall not be
2 required unless the planned bridge facility is an original bridge
3 serving the area or an addition to any existing bridge facility
4 serving the area at the time of the adoption of the boundaries of
5 the area of benefit. The fees shall not be expended to reimburse
6 the cost of existing bridge facility construction.

7 (6) The ordinance provides that if, within the time when protests
8 may be filed under the provisions of the ordinance, there is a
9 written protest, filed with the clerk of the legislative body, by the
10 owners of more than one-half of the area of the property to be
11 benefited by the improvement, and sufficient protests are not
12 withdrawn so as to reduce the area represented to less than one-half
13 of that to be benefited, then the proposed proceedings shall be
14 abandoned, and the legislative body shall not, for one year from
15 the filing of that written protest, commence or carry on any
16 proceedings for the same improvement or acquisition under the
17 provisions of this section.

18 (b) Any protest may be withdrawn by the owner protesting, in
19 writing, at any time prior to the conclusion of a public hearing held
20 pursuant to the ordinance.

21 (c) If any majority protest is directed against only a portion of
22 the improvement then all further proceedings under the provisions
23 of this section to construct that portion of the improvement so
24 protested against shall be barred for a period of one year, but the
25 legislative body may commence new proceedings not including
26 any part of the improvement or acquisition so protested against.
27 Nothing in this section prohibits a legislative body, within that
28 one-year period, from commencing and carrying on new
29 proceedings for the construction of a portion of the improvement
30 so protested against if it finds, by the affirmative vote of four-fifths
31 of its members, that the owners of more than one-half of the area
32 of the property to be benefited are in favor of going forward with
33 that portion of the improvement or acquisition.

34 (d) Nothing in this section precludes the processing and
35 recordation of maps in accordance with other provisions of this
36 division if the proceedings are abandoned.

37 (e) Fees paid pursuant to an ordinance adopted pursuant to this
38 section shall be deposited in a planned bridge facility or major
39 thoroughfare fund. A fund shall be established for each planned
40 bridge facility project or each planned major thoroughfare project.

1 If the benefit area is one in which more than one bridge is required
2 to be constructed, a fund may be so established covering all of the
3 bridge projects in the benefit area. Money in the fund shall be
4 expended solely for the construction or reimbursement for
5 construction of the improvement serving the area to be benefited
6 and from which the fees comprising the fund were collected, or to
7 reimburse the local agency for the cost of constructing the
8 improvement.

9 (f) An ordinance adopted pursuant to this section may provide
10 for the acceptance of considerations in lieu of the payment of fees.

11 (g) A local agency imposing fees pursuant to this section may
12 advance money from its general fund or road fund to pay the cost
13 of constructing the improvements and may reimburse the general
14 fund or road fund for any advances from planned bridge facility
15 or major thoroughfares funds established to finance the construction
16 of those improvements.

17 (h) A local agency imposing fees pursuant to this section may
18 incur an interest-bearing indebtedness for the construction of bridge
19 facilities or major thoroughfares. However, the sole security for
20 repayment of that indebtedness shall be moneys in planned bridge
21 facility or major thoroughfares funds.

22 (i) The term “construction” as used in this section includes
23 design, acquisition of right-of-way, administration of construction
24 contracts, and actual construction.

25 (j) The term “construction,” as used in this section, with respect
26 to the unincorporated area of San Diego County only, includes
27 design, acquisition of rights-of-way, and actual construction,
28 including, but not limited to, all direct and indirect environmental,
29 engineering, accounting, legal, administration of construction
30 contracts, and other services necessary therefor. The term
31 “construction,” with respect to the unincorporated area of San
32 Diego County only, also includes reasonable administrative
33 expenses, not exceeding three hundred thousand dollars (\$300,000)
34 in any calendar year after January 1, 1986, as adjusted annually
35 for any increase or decrease in the Consumer Price Index of the
36 Bureau of Labor Statistics of the United States Department of
37 Labor for all Urban Consumers, San Diego, California (1967 =
38 100), as published by the United States Department of Commerce
39 for the purpose of constructing bridges and major thoroughfares.
40 “Administrative expenses” means those office, personnel, and

1 other customary and normal expenses associated with the direct
2 management and administration of the agency, but not including
3 costs of construction.

4 (k) Nothing in this section precludes a county or city from
5 providing funds for the construction of bridge facilities or major
6 thoroughfares to defray costs not allocated to the area of benefit.

7 SEC. 4. Section 66484.3 of the Government Code is amended
8 to read:

9 66484.3. (a) Notwithstanding Section 53077.5, the Board of
10 Supervisors of the County of Orange and the city council or
11 councils of any city or cities in that county may, by ordinance,
12 require the payment of a fee as a condition of approval of a final
13 map or as a condition of issuing a building permit for purposes of
14 defraying the actual or estimated cost of constructing bridges over
15 waterways, railways, freeways, and canyons, or constructing major
16 thoroughfares.

17 (b) The local ordinance may require payment of fees pursuant
18 to this section if:

19 (1) The ordinance refers to the circulation *and transportation*
20 element of the general plan and, in the case of bridges, to the
21 transportation provisions or flood control provisions of the general
22 plan which identify railways, freeways, streams, or canyons for
23 which bridge crossings are required on the general plan or local
24 roads, and in the case of major thoroughfares, to the provisions of
25 the circulation *and transportation* element which identify those
26 major thoroughfares whose primary purpose is to carry through
27 traffic and provide a network connecting to or which is part of the
28 state highway system, and the circulation *and transportation*
29 element, transportation provisions, or flood control provisions
30 have been adopted by the local agency 30 days prior to the filing
31 of a map or application for a building permit. Bridges which are
32 part of a major thoroughfare need not be separately identified in
33 the transportation or flood control provisions of the general plan.

34 (2) The ordinance provides that there will be a public hearing
35 held by the governing body for each area benefited. Notice shall
36 be given pursuant to Section 65905. In addition to the requirements
37 of Section 65905, the notice shall contain preliminary information
38 related to the boundaries of the area of benefit, estimated cost, and
39 the method of fee apportionment. The area of benefit may include
40 land or improvements in addition to the land or improvements

1 which are the subject of any map or building permit application
2 considered at the proceedings.

3 (3) The ordinance provides that at the public hearing, the
4 boundaries of the area of benefit, the costs, whether actual or
5 estimated, and a fair method of allocation of costs to the area of
6 benefit and fee apportionment are established. The method of fee
7 apportionment, in the case of major thoroughfares, shall not provide
8 for higher fees on land which abuts the proposed improvement
9 except where the abutting property is provided direct usable access
10 to the major thoroughfare. A description of the boundaries of the
11 area of benefit, the costs, whether actual or estimated, and the
12 method of fee apportionment established at the hearing shall be
13 incorporated in a resolution of the governing body, a certified copy
14 of which shall be recorded by the governing body conducting the
15 hearing with the recorder of the County of Orange. The resolution
16 may subsequently be modified in any respect by the governing
17 body. Modifications shall be adopted in the same manner as the
18 original resolution, except that the resolution of a city or county
19 which has entered into a joint exercise of powers agreement
20 pursuant to subdivision (f), relating to constructing bridges over
21 waterways, railways, freeways, and canyons or constructing major
22 thoroughfares by the joint powers agency, may be modified by the
23 joint powers agency following public notice and a public hearing,
24 if the joint powers agency has complied with all applicable laws,
25 including Chapter 5 (commencing with Section 66000) of Division
26 1. Any modification shall be subject to the protest procedures
27 prescribed by paragraph (6). The resolution may provide for
28 automatic periodic adjustment of fees based upon the California
29 Construction Cost Index prepared and published by the Department
30 of Transportation, without further action of the governing body,
31 including, but not limited to, public notice or hearing. The
32 apportioned fees shall be applicable to all property within the area
33 of benefit and shall be payable as a condition of approval of a final
34 map or as a condition of issuing a building permit for any of the
35 property or portions of the property. Where the area of benefit
36 includes lands not subject to the payment of fees pursuant to this
37 section, the governing body shall make provision for payment of
38 the share of improvement costs apportioned to those lands from
39 other sources, but those sources need not be identified at the time
40 of the adoption of the resolution.

1 (4) The ordinance provides that payment of fees shall not be
2 required unless the major thoroughfares are in addition to, or a
3 reconstruction or widening of, any existing major thoroughfares
4 serving the area at the time of the adoption of the boundaries of
5 the area of benefit.

6 (5) The ordinance provides that payment of fees shall not be
7 required unless the planned bridge facility is an original bridge
8 serving the area or an addition to any existing bridge facility
9 serving the area at the time of the adoption of the boundaries of
10 the area of benefit. Fees imposed pursuant to this section shall not
11 be expended to reimburse the cost of existing bridge facility
12 construction, unless these costs are incurred in connection with
13 the construction of an addition to an existing bridge for which fees
14 may be required.

15 (6) The ordinance provides that if, within the time when protests
16 may be filed under its provisions, there is a written protest, filed
17 with the clerk of the legislative body, by the owners of more than
18 one-half of the area of the property to be benefited by the
19 improvement, and sufficient protests are not withdrawn so as to
20 reduce the area represented to less than one-half of that to be
21 benefited, then the proposed proceedings shall be abandoned, and
22 the legislative body shall not, for one year from the filing of that
23 written protest, commence or carry on any proceedings for the
24 same improvement or acquisition under this section, unless the
25 protests are overruled by an affirmative vote of four-fifths of the
26 legislative body.

27 Nothing in this section shall preclude the processing and
28 recordation of maps in accordance with other provisions of this
29 division if proceedings are abandoned.

30 Any protests may be withdrawn in writing by the owner who
31 filed the protest, at any time prior to the conclusion of a public
32 hearing held pursuant to the ordinance.

33 If any majority protest is directed against only a portion of the
34 improvement then all further proceedings under the provisions of
35 this section to construct that portion of the improvement so
36 protested against shall be barred for a period of one year, but the
37 legislative body shall not be barred from commencing new
38 proceedings not including any part of the improvement or
39 acquisition so protested against. Nothing in this section shall
40 prohibit the legislative body, within the one-year period, from

1 commencing and carrying on new proceedings for the construction
2 of a portion of the improvement so protested against if it finds, by
3 the affirmative vote of four-fifths of its members, that the owners
4 of more than one-half of the area of the property to be benefited
5 are in favor of going forward with that portion of the improvement
6 or acquisition.

7 If the provisions of this paragraph (6), or provisions
8 implementing this paragraph contained in any ordinance adopted
9 pursuant to this section, are held invalid, that invalidity shall not
10 affect other provisions of this section or of the ordinance adopted
11 pursuant thereto, which can be given effect without the invalid
12 provision, and to this end the provisions of this section and of an
13 ordinance adopted pursuant thereto are severable.

14 (c) Fees paid pursuant to an ordinance adopted pursuant to this
15 section shall be deposited in a planned bridge facility or major
16 thoroughfare fund. A fund shall be established for each planned
17 bridge facility project or each planned major thoroughfare project.
18 If the benefit area is one in which more than one bridge or major
19 thoroughfare is required to be constructed, a fund may be so
20 established covering all of the bridge or major thoroughfare
21 projects in the benefit area. Except as otherwise provided in
22 subdivision (g), moneys in the fund shall be expended solely for
23 the construction or reimbursement for construction of the
24 improvement serving the area to be benefited and from which the
25 fees comprising the fund were collected, or to reimburse the county
26 or a city for the cost of constructing the improvement.

27 (d) An ordinance adopted pursuant to this section may provide
28 for the acceptance of considerations in lieu of the payment of fees.

29 (e) The county or a city imposing fees pursuant to this section
30 may advance money from its general fund or road fund to pay the
31 cost of constructing the improvements and may reimburse the
32 general fund or road fund from planned bridge facilities or major
33 thoroughfares funds established to finance the construction of the
34 improvements.

35 (f) The county or a city imposing fees pursuant to this section
36 may incur an interest-bearing indebtedness for the construction of
37 bridge facilities or major thoroughfares. The sole security for
38 repayment of the indebtedness shall be moneys in planned bridge
39 facilities or major thoroughfares funds. A city or county imposing
40 fees pursuant to this section may enter into joint exercise of powers

1 agreements with other local agencies imposing fees pursuant to
2 this section, for the purpose of, among others, jointly exercising
3 as a duly authorized original power established by this section, in
4 addition to those through a joint exercise of powers agreement,
5 those powers authorized in Chapter 5 (commencing with Section
6 31100) of Division 17 of the Streets and Highways Code for the
7 purpose of constructing bridge facilities and major thoroughfares
8 in lieu of a tunnel and appurtenant facilities, and, notwithstanding
9 Section 31200 of the Streets and Highways Code, may acquire by
10 dedication, gift, purchase, or eminent domain, any franchise, rights,
11 privileges, easements, or other interest in property, either real or
12 personal, necessary therefor on segments of the state highway
13 system, including, but not limited to, those segments of the state
14 highway system eligible for federal participation pursuant to Title
15 23 of the United States Code.

16 An entity constructing bridge facilities and major thoroughfares
17 pursuant to this section shall design and construct the bridge
18 facilities and major thoroughfares to the standards and
19 specifications of the Department of Transportation then in effect,
20 and may, at any time, transfer all or a portion of the bridge facilities
21 and major thoroughfares to the state subject to the terms and
22 conditions as shall be satisfactory to the Director of the Department
23 of Transportation. Any of these bridge facilities and major
24 thoroughfares shall be designated as a portion of the state highway
25 system prior to its transfer. The participants in a joint exercise of
26 powers agreement may also exercise as a duly authorized original
27 power established by this section the power to establish and collect
28 toll charges only for paying for the costs of construction of the
29 major thoroughfare for which the toll is charged and for the costs
30 of collecting the tolls, except that a joint powers agency, which is
31 the lending agency, may, notwithstanding subdivision (c), make
32 toll revenues and fees imposed pursuant to this section available
33 to another joint powers agency, which is the borrowing agency,
34 established for the purpose of designing, financing, and
35 constructing coordinated and interrelated major thoroughfares, in
36 the form of a subordinated loan, to pay for the cost of construction
37 and toll collection of major thoroughfares other than the major
38 thoroughfares for which the toll or fee is charged, if the lending
39 agency has complied with all applicable laws, including Chapter
40 5 (commencing with Section 66000) of Division 1, and if the

1 borrowing agency is required to pay interest on the loan to the
2 lending agency at a rate equal to the interest rate charged on funds
3 loaned from the Pooled Money Investment Account. Prior to
4 executing the loan, the lending agency shall make all of the
5 following findings:

6 (1) The major thoroughfare for which the toll or fee is charged
7 will benefit from the construction of the major thoroughfare to be
8 constructed by the borrowing agency or will benefit financially
9 by a sharing of revenues with the borrowing agency.

10 (2) The lending agency will possess adequate financial resources
11 to fund all costs of construction of existing and future projects that
12 it plans to undertake prior to the final maturity of the loan, after
13 funding the loan, and taking into consideration its then existing
14 funds, its present and future obligations, and the revenues and fees
15 it expects to receive.

16 (3) The funding of the loan will not materially impair its
17 financial condition or operations during the term of the loan.

18 Major thoroughfares from which tolls are charged shall utilize
19 the toll collection equipment most capable of moving vehicles
20 expeditiously and efficiently, and which is best suited for that
21 purpose, as determined by the participants in the joint exercise of
22 powers agreement. However, in no event shall the powers
23 authorized in Chapter 5 (commencing with Section 31100) of
24 Division 17 of the Streets and Highways Code be exercised unless
25 a resolution is first adopted by the legislative body of the agency
26 finding that adequate funding for the portion of the cost of
27 constructing those bridge facilities and major thoroughfares not
28 funded by the development fees collected by the agency is not
29 available from any federal, state, or other source. Any major
30 thoroughfare constructed and operated as a toll road pursuant to
31 this section shall only be constructed parallel to other public
32 thoroughfares and highways.

33 (g) The term “construction,” as used in this section, includes
34 design, acquisition of rights-of-way, and actual construction,
35 including, but not limited to, all direct and indirect environmental,
36 engineering, accounting, legal, administration of construction
37 contracts, and other services necessary therefor. The term
38 “construction” also includes reasonable general agency
39 administrative expenses, not exceeding three hundred thousand
40 dollars (\$300,000) in any calendar year after January 1, 1986, as

1 adjusted annually for any increase or decrease in the Consumer
2 Price Index of the Bureau of Labor Statistics of the United States
3 Department of Labor for all Urban Consumers, Los Angeles-Long
4 Beach-Anaheim, California (1967=100), as published by the United
5 States Department of Commerce, by each agency created pursuant
6 to Article 1 (commencing with Section 6500) of Chapter 5 of
7 Division 7 of Title 1 for the purpose of constructing bridges and
8 major thoroughfares. “General agency administrative expenses”
9 means those office, personnel, and other customary and normal
10 expenses associated with the direct management and administration
11 of the agency, but not including costs of construction.

12 (h) Fees paid pursuant to an ordinance adopted pursuant to this
13 section may be utilized to defray all direct and indirect financing
14 costs related to the construction of the bridges and major
15 thoroughfares by the joint powers agency. Because the financing
16 costs of bridges and major thoroughfares for which a toll charge
17 shall be established or collected represent a necessary element of
18 the total cost of those bridges and major thoroughfares, the joint
19 powers agency constructing those facilities may include a charge
20 for financing costs in the calculation of the fee rate. The charge
21 shall be based on the estimated financing cost of any eligible
22 portion of the bridges and major thoroughfares for which tolls shall
23 be collected. The eligible portion shall be any or all portions of
24 the major thoroughfare for which a viable financial plan has been
25 adopted by the joint powers agency on the basis of revenues
26 reasonably expected by the joint powers agency to be available to
27 the thoroughfare, after consultation with representatives of the fee
28 payers. For purposes of calculating the charge, financing costs
29 shall include only reasonable allowances for payments and charges
30 for principal, interest, and premium on indebtedness, letter of credit
31 fees and charges, remarketing fees and charges, underwriters’
32 discount, and other costs of issuance, less net earnings on bridge
33 and major thoroughfare funds by the joint powers agency prior to
34 the opening of the facility to traffic after giving effect to any
35 payments from the fund to preserve the federal income tax
36 exemption on the indebtedness. For purposes of calculating the
37 charge for financing costs in the calculation of the fee rate only,
38 financing costs shall not include any allowance for the cost of any
39 interest paid on indebtedness with regard to each eligible portion
40 after the estimated opening of the portion to traffic as established

1 by the joint powers agency. Any and all challenges to any financial
2 plan or financing costs adopted or calculated pursuant to this
3 section shall be governed by subdivision (k).

4 (i) Nothing in this section shall be construed to preclude the
5 County of Orange or any city within that county from providing
6 funds for the construction of bridge facilities or major
7 thoroughfares to defray costs not allocated to the area of benefit.

8 (j) Any city within the County of Orange may require the
9 payment of fees in accordance with this section as to any property
10 in an area of benefit within the city's boundaries, for facilities
11 shown on its general plan or the county's general plan, whether
12 the facilities are situated within or outside the boundaries of the
13 city, and the county may expend fees for facilities or portions
14 thereof located within cities in the county.

15 (k) The validity of any fee required pursuant to this section shall
16 not be contested in any action or proceeding unless commenced
17 within 60 days after recordation of the resolution described in
18 paragraph (3) of subdivision (b). The provisions of Chapter 9
19 (commencing with Section 860) of Title 10 of Part 2 of the Code
20 of Civil Procedure shall be applicable to ~~any such~~ *this* action or
21 proceeding. This subdivision shall also apply to modifications of
22 fee programs.

23 (l) If the County of Orange and any city within that county have
24 entered into a joint powers agreement for the purpose of
25 constructing the bridges and major thoroughfares referred to in
26 Sections 50029 and 66484.3, and if a proposed change of
27 organization or reorganization includes any territory of an area of
28 benefit established pursuant to Sections 50029 and 66484.3, within
29 a successor local agency, the local agency shall not take any action
30 that would impair, delay, frustrate, obstruct, or otherwise impede
31 the construction of the bridges and major thoroughfares referred
32 to in this section.

33 (m) Nothing in this section prohibits the succession of all
34 powers, obligations, liabilities, and duties of any joint powers
35 agency created pursuant to subdivision (l) to an entity with
36 comprehensive countywide transportation planning and operating
37 authority ~~which~~ *that* is statutorily created in the County of Orange
38 and which is statutorily authorized to assume those powers,
39 obligations, liabilities, and duties.

1 SEC. 5. Section 99150 of the Public Utilities Code is amended
2 to read:

3 99150. In locating its bus stops, park and ride service facilities,
4 and special service terminal points and stations, a transit district
5 shall consult with, and consider the recommendations of, the city
6 if ~~such~~ transit facilities are to be located therein, or the county if
7 ~~such~~ transit facilities are to be located in the unincorporated area
8 thereof, on the proposed locations.

9 The city or county, as the case may be, in making its
10 recommendations to the transit district on the proposed location
11 of ~~any such~~ *that* transit facilities, shall consider whether the
12 proposed location is consistent with the circulation *and*
13 *transportation* element of its general plan.

14 SEC. 6. Section 75.9 of the Streets and Highways Code is
15 amended to read:

16 75.9. Upon the selection, adoption, and determination of the
17 location for a state highway or freeway, the commission shall
18 notify all planning agencies and legislative bodies having
19 responsibility pursuant to Section 65300 of the Government Code
20 for the adoption of the general plan or plans in the area affected
21 by ~~such~~ *the* commission action. Within 90 days after receipt of
22 such notice, all ~~such~~ planning agencies and legislative bodies shall
23 revise the circulation *and transportation* element of their general
24 plans to reflect ~~such~~ *the* commission action.

25 SEC. 7. Section 21101 of the Vehicle Code is amended to read:

26 21101. Local authorities, for those highways under their
27 jurisdiction, may adopt rules and regulations by ordinance or
28 resolution on the following matters:

29 (a) Closing any highway to vehicular traffic when, in the opinion
30 of the legislative body having jurisdiction, the highway is either
31 of the following:

32 (1) No longer needed for vehicular traffic.

33 (2) The closure is in the interests of public safety and all of the
34 following conditions and requirements are met:

35 (A) The street proposed for closure is located in a county with
36 a population of 6,000,000 or more.

37 (B) The street has an unsafe volume of traffic and a significant
38 incidence of crime.

39 (C) The affected local authority conducts a public hearing on
40 the proposed street closure.

1 (D) Notice of the hearing is provided to residents and owners
2 of property adjacent to the street proposed for closure.

3 (E) The local authority makes a finding that closure of the street
4 likely would result in a reduced rate of crime.

5 (b) Designating any highway as a through highway and requiring
6 that all vehicles observe official traffic control devices before
7 entering or crossing the highway or designating any intersection
8 as a stop intersection and requiring all vehicles to stop at one or
9 more entrances to the intersection.

10 (c) Prohibiting the use of particular highways by certain vehicles,
11 except as otherwise provided by the Public Utilities Commission
12 pursuant to Article 2 (commencing with Section 1031) of Chapter
13 5 of Part 1 of Division 1 of the Public Utilities Code.

14 (d) Closing particular streets during regular school hours for
15 the purpose of conducting automobile driver training programs in
16 the secondary schools and colleges of this state.

17 (e) Temporarily closing a portion of any street for celebrations,
18 parades, local special events, and other purposes when, in the
19 opinion of local authorities having jurisdiction or a public officer
20 or employee that the local authority designates by resolution, the
21 closing is necessary for the safety and protection of persons who
22 are to use that portion of the street during the temporary closing.

23 (f) Prohibiting entry to, or exit from, or both, from any street
24 by means of islands, curbs, traffic barriers, or other roadway design
25 features to implement the circulation *and transportation* element
26 of a general plan adopted pursuant to Article ~~6 5~~ (commencing
27 with Section ~~65350~~ 65300) of Chapter 3 of Division 1 of Title 7
28 of the Government Code. The rules and regulations authorized by
29 this subdivision shall be consistent with the responsibility of local
30 government to provide for the health and safety of its citizens.

31 SEC. 8. Section 35701 of the Vehicle Code is amended to read:

32 35701. (a) Any city, or county for a residence district, may,
33 by ordinance, prohibit the use of a street by any commercial vehicle
34 or by any vehicle exceeding a maximum gross weight limit, except
35 with respect to any vehicle which is subject to Sections 1031 to
36 1036, inclusive, of the Public Utilities Code, and except with
37 respect to vehicles used for the collection and transportation of
38 garbage, rubbish, or refuse using traditionally used routes in San
39 Diego County when the solid waste management plan prepared
40 under Section 66780.1 of the Government Code is amended to

1 designate each traditionally used route used for the purpose of
2 transporting garbage, rubbish, or refuse which intersects with a
3 local or regional arterial circulation route contained within a city
4 or county's traffic circulation *and transportation* element and
5 which provides access to a solid waste disposal site.

6 (b) The ordinance shall not be effective until appropriate signs
7 are erected indicating either the streets affected by the ordinance
8 or the streets not affected, as the local authority determines will
9 best serve to give notice of the ordinance.

10 (c) No ordinance adopted pursuant to this section after
11 November 10, 1969, shall apply to any state highway which is
12 included in the National System of Interstate and Defense
13 Highways, except an ordinance which has been approved by a
14 two-thirds vote of the California Transportation Commission.

15 (d) The solid waste management plan prepared under Section
16 66780.1 of the Government Code by San Diego County may
17 designate the traditionally used routes.

18 (e) "Traditionally used route," for purposes of this section,
19 means any street used for a period of one year or more as access
20 to or from a solid waste disposal site.