

AMENDED IN ASSEMBLY APRIL 27, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2136

**Introduced by Assembly Member Caballero Members
V. Manuel Perez and Salas**
(Principal coauthor: Senator Ducheny)

February 18, 2010

~~An act to amend Sections 65089.6, 65302, 66484, and 66484.3 of the Government Code, to amend Sections 99150 and 132359 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 general plans. An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.170, 195.171, and 195.172 to, the Revenue and Taxation Code, relating to disaster relief, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2136, as amended, ~~Caballero V. Manuel Perez. Planning: general plans: circulation and transportation element. Disaster relief: County of Imperial earthquake.~~

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues

resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.

This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the County of Imperial, which was declared by the Governor to be in a state of emergency due to the earthquake that occurred on April 4, 2010.

By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the County of Imperial for these property tax revenue reductions, this bill would make an appropriation.

(2) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.

This bill would also provide that any dwelling that qualified for the exemption prior to April 4, 2010, that was damaged or destroyed by the earthquake in the County of Imperial, and that has not changed ownership since April 4, 2010, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the earthquake.

The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.

This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, this bill would impose a state-mandated local program.

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.

(3) *The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.*

This bill would extend these provisions to losses sustained in the County of Imperial as a result of the earthquake that occurred in April 2010. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

~~Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city with specified elements, including a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, military airports and ports, and other local public utilities and facilities, among other things, all correlated with the land use element of the plan.~~

~~This bill would rename the circulation element as the circulation and transportation element.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 195.170 is added to the Revenue and
2 Taxation Code, to read:
3 195.170. (a) By October 30, 2010, the auditor of the County
4 of Imperial, which was the subject of the Governor’s proclamation
5 of a state of emergency for the earthquake that occurred on April
6 4, 2010, shall certify to the Director of Finance an estimate of the
7 total amount of the reduction in property tax revenues on both the
8 regular secured roll and the supplemental roll for the 2009–10
9 fiscal year resulting from the reassessment by the county assessor
10 pursuant to paragraph (1) of subdivision (a) of Section 170 of
11 those properties that are eligible properties as a result of that
12 disaster, except that the amount certified shall not include any
13 estimated property tax revenue reductions to school districts, other

1 *than basic state aid school districts, and county offices of*
2 *education.*

3 *(b) For purposes of this section, “basic state aid school district”*
4 *means any school district that does not receive a state*
5 *apportionment pursuant to subdivision (h) of Section 42238 of the*
6 *Education Code, but receives from the state only a basic*
7 *apportionment pursuant to Section 6 of Article IX of the California*
8 *Constitution.*

9 *SEC. 2. Section 195.171 is added to the Revenue and Taxation*
10 *Code, to read:*

11 *195.171. After the county auditor of the eligible county, as*
12 *described in Section 195.170, has made the applicable certification*
13 *to the Director of Finance pursuant to that section, the director*
14 *shall, within 30 days after verification of the county auditor’s*
15 *estimate, certify this amount to the Controller for allocation to the*
16 *county. Upon receipt of certification from the Director of Finance,*
17 *the Controller shall make the appropriate allocation to the county*
18 *within 10 working days.*

19 *SEC. 3. Section 195.172 is added to the Revenue and Taxation*
20 *Code, to read:*

21 *195.172. (a) On or before June 30, 2011, an eligible county,*
22 *as described in Section 195.170, shall compute and remit to the*
23 *Controller for deposit in the General Fund an amount equal to*
24 *the amount allocated to it by the Controller pursuant to Section*
25 *195.171, less the actual amount of its property tax revenue lost on*
26 *the regular secured and supplemental rolls with respect to those*
27 *eligible properties described in Section 195.170 as a result of the*
28 *reassessment of those properties pursuant to paragraph (1) of*
29 *subdivision (a) of Section 170, excluding any property tax revenue*
30 *lost by school districts, other than basic state aid school districts,*
31 *and county offices of education. If the actual amount of property*
32 *tax revenue lost by an eligible county in the immediately preceding*
33 *fiscal year, as described and limited in the preceding sentence,*
34 *exceeds the amount allocated by the Controller to that county*
35 *pursuant to Section 195.171, the Controller shall allocate the*
36 *amount of that excess to that eligible county.*

37 *(b) For purposes of this section, “basic state aid school district”*
38 *means any school district that does not receive a state*
39 *apportionment pursuant to subdivision (h) of Section 42238 of the*
40 *Education Code, but receives from the state only a basic*

1 *apportionment pursuant to Section 6 of Article IX of the California*
2 *Constitution.*

3 *SEC. 4. Section 218 of the Revenue and Taxation Code is*
4 *amended to read:*

5 218. (a) The homeowners' property tax exemption is in the
6 amount of the assessed value of the dwelling specified in this
7 section, as authorized by subdivision (k) of Section 3 of Article
8 XIII of the California Constitution. That exemption shall be in the
9 amount of seven thousand dollars (\$7,000) of the full value of the
10 dwelling.

11 (b) The exemption does not extend to property that is rented,
12 vacant, under construction on the lien date, or that is a vacation or
13 secondary home of the owner or owners, nor does it apply to
14 property on which an owner receives the veteran's exemption.

15 (c) For purposes of this section, all of the following apply:

16 (1) "Owner" includes a person purchasing the dwelling under
17 a contract of sale or who holds shares or membership in a
18 cooperative housing corporation, which holding is a requisite to
19 the exclusive right of occupancy of a dwelling.

20 (2) (A) "Dwelling" means a building, structure, or other shelter
21 constituting a place of abode, whether real property or personal
22 property, and any land on which it may be situated. A two-dwelling
23 unit shall be considered as two separate single-family dwellings.

24 (B) "Dwelling" includes the following:

25 (i) A single-family dwelling occupied by an owner thereof as
26 his or her principal place of residence on the lien date.

27 (ii) A multiple-dwelling unit occupied by an owner thereof on
28 the lien date as his or her principal place of residence.

29 (iii) A condominium occupied by an owner thereof as his or her
30 principal place of residence on the lien date.

31 (iv) Premises occupied by the owner of shares or a membership
32 interest in a cooperative housing corporation, as defined in
33 subdivision (i) of Section 61, as his or her principal place of
34 residence on the lien date. Each exemption allowed pursuant to
35 this subdivision shall be deducted from the total assessed valuation
36 of the cooperative housing corporation. The exemption shall be
37 taken into account in apportioning property taxes among owners
38 of share or membership interests in the cooperative housing
39 corporations so as to benefit those owners who qualify for the
40 exemption.

1 (d) Any dwelling that qualified for an exemption under this
2 section prior to October 20, 1991, that was damaged or destroyed
3 by fire in a disaster, as declared by the Governor, occurring on or
4 after October 20, 1991, and before November 1, 1991, and that
5 has not changed ownership since October 20, 1991, shall not be
6 disqualified as a “dwelling” or be denied an exemption under this
7 section solely on the basis that the dwelling was temporarily
8 damaged or destroyed or was being reconstructed by the owner.

9 (e) Any dwelling that qualified for an exemption under this
10 section prior to October 15, 2003, that was damaged or destroyed
11 by fire or earthquake in a disaster, as declared by the Governor,
12 during October, November, or December 2003, and that has not
13 changed ownership since October 15, 2003, shall not be
14 disqualified as a “dwelling” or be denied an exemption under this
15 section solely on the basis that the dwelling was temporarily
16 damaged or destroyed or was being reconstructed by the owner.

17 (f) Any dwelling that qualified for an exemption under this
18 section prior to June 3, 2004, that was damaged or destroyed by
19 flood in a disaster, as declared by the Governor, during June 2004,
20 and that has not changed ownership since June 3, 2004, shall not
21 be disqualified as a “dwelling” or be denied an exemption under
22 this section solely on the basis that the dwelling was temporarily
23 damaged or destroyed or was being reconstructed by the owner.

24 (g) Any dwelling that qualified for an exemption under this
25 section prior to August 11, 2004, that was damaged or destroyed
26 by the wildfires and any other related casualty that occurred in
27 Shasta County in a disaster, as declared by the Governor, during
28 August 2004, and that has not changed ownership since August
29 11, 2004, shall not be disqualified as a “dwelling” or be denied an
30 exemption under this section solely on the basis that the dwelling
31 was temporarily damaged or destroyed or was being reconstructed
32 by the owner.

33 (h) Any dwelling that qualified for an exemption under this
34 section prior to December 28, 2004, that was damaged or destroyed
35 by severe rainstorms, floods, mudslides, or the accumulation of
36 debris in a disaster, as declared by the Governor, during December
37 2004, January 2005, February 2005, March 2005, or June 2005,
38 and that has not changed ownership since December 28, 2004,
39 shall not be disqualified as a “dwelling” or be denied an exemption
40 under this section solely on the basis that the dwelling was

1 temporarily damaged or destroyed or was being reconstructed by
2 the owner, or was temporarily uninhabited as a result of restricted
3 access to the property due to floods, mudslides, the accumulation
4 of debris, or washed-out or damaged roads.

5 (i) Any dwelling that qualified for an exemption under this
6 section prior to December 19, 2005, that was damaged or destroyed
7 by severe rainstorms, floods, mudslides, or the accumulation of
8 debris in a disaster, as declared by the Governor in January 2006,
9 April 2006, May 2006, or June 2006, and that has not changed
10 ownership since December 19, 2005, shall not be disqualified as
11 a “dwelling” or be denied an exemption under this section solely
12 on the basis that the dwelling was temporarily damaged or
13 destroyed or was being reconstructed by the owner, or was
14 temporarily uninhabited as a result of restricted access to the
15 property due to floods, mudslides, the accumulation of debris, or
16 washed-out or damaged roads.

17 (j) Any dwelling that qualified for an exemption under this
18 section prior to July 9, 2006, that was damaged or destroyed by
19 the wildfires and any other related casualty that occurred in the
20 County of San Bernardino, as declared by the Governor in July
21 2006, and that has not changed ownership since July 9, 2006, shall
22 not be disqualified as a “dwelling” or be denied an exemption
23 under this section solely on the basis that the dwelling was
24 temporarily damaged or destroyed or was being reconstructed by
25 the owner, or was temporarily uninhabited as a result of restricted
26 access to the property due to the wildfires.

27 (k) Any dwelling that qualified for an exemption under this
28 section prior to the commencement dates of the wildfires listed in
29 the Governor’s proclamations of 2006 that was damaged or
30 destroyed by the wildfires and any other related casualty that
31 occurred in the Counties of Riverside and Ventura, and that has
32 not changed ownership since the commencement dates of these
33 disasters as listed in the Governor’s proclamations of 2006 shall
34 not be disqualified as a “dwelling” or be denied an exemption
35 under this section solely on the basis that the dwelling was
36 temporarily damaged or destroyed or was being reconstructed by
37 the owner, or was temporarily uninhabited as a result of restricted
38 access to the property due to the wildfires.

39 (l) Any dwelling that qualified for an exemption under this
40 section prior to January 11, 2007, that was damaged or destroyed

1 by severe freezing conditions, commencing January 11, 2007, and
2 any other related casualty that occurred in the Counties of El
3 Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey,
4 Riverside, San Bernardino, San Diego, San Luis Obispo, Santa
5 Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba as a
6 result of a disaster as declared by the Governor, and that has not
7 changed ownership since January 11, 2007, shall not be disqualified
8 as a “dwelling” or be denied an exemption under this section solely
9 on the basis that the dwelling was temporarily damaged or
10 destroyed or was being reconstructed by the owner, or was
11 temporarily uninhabited as a result of restricted access to the
12 property due to severe freezing conditions.

13 (m) Any dwelling that qualified for an exemption under this
14 section prior to June 24, 2007, that was damaged or destroyed by
15 the wildfires and any other related casualty that occurred as a result
16 of this disaster in the County of El Dorado, as declared by the
17 Governor in June 2007, and that has not changed ownership since
18 June 24, 2007, shall not be disqualified as a “dwelling” or be denied
19 an exemption under this section solely on the basis that the
20 dwelling was temporarily damaged or destroyed or was being
21 reconstructed by the owner, or was temporarily uninhabited as a
22 result of restricted access to the property due to the wildfires.

23 (n) Any dwelling that qualified for an exemption under this
24 section prior to July 4, 2007, that was damaged or destroyed by
25 the Zaca Fire and any other related casualty that occurred as a
26 result of this disaster in the Counties of Santa Barbara and Ventura,
27 as declared by the Governor in August 2007, and that has not
28 changed ownership since July 4, 2007, may not be denied an
29 exemption solely on the basis that the dwelling was temporarily
30 damaged or destroyed or was being reconstructed by the owner,
31 or was temporarily uninhabited as a result of restricted access to
32 the property due to the Zaca Fire.

33 (o) Any dwelling that qualified for an exemption under this
34 section prior to July 6, 2007, that was damaged or destroyed by
35 the wildfires and any other related casualty that occurred as a result
36 of this disaster in the County of Inyo, as declared by the Governor
37 in July 2007, and that has not changed ownership since July 6,
38 2007, may not be denied an exemption solely on the basis that the
39 dwelling was temporarily damaged or destroyed or was being

1 reconstructed by the owner, or was temporarily uninhabited as a
2 result of restricted access to the property due to the wildfires.

3 (p) Any dwelling that qualified for an exemption under this
4 section prior to the commencement dates of the wildfires listed in
5 the Governor’s disaster proclamations of September 15, 2007, and
6 October 21, 2007, that was damaged or destroyed by the wildfires
7 and any other related casualty that occurred in the Counties of Los
8 Angeles, Orange, Riverside, San Bernardino, San Diego, Santa
9 Barbara, and Ventura, and that has not changed ownership since
10 the commencement dates of these disasters as listed in the
11 proclamations shall not be disqualified as a “dwelling” or be denied
12 an exemption under this section solely on the basis that the
13 dwelling was temporarily damaged or destroyed or was being
14 reconstructed by the owner, or was temporarily uninhabited as a
15 result of restricted access to the property due to the wildfires.

16 (q) Any dwelling that qualified for an exemption under this
17 section prior to October 20, 2007, that was damaged or destroyed
18 by the extremely strong and damaging winds and any other related
19 casualty that occurred as a result of this disaster in the County of
20 Riverside, as declared by the Governor in November 2007, and
21 that has not changed ownership since October 20, 2007, shall not
22 be disqualified as a “dwelling” or be denied an exemption under
23 this section solely on the basis that the dwelling was temporarily
24 damaged or destroyed or was being reconstructed by the owner,
25 or was temporarily uninhabited as a result of restricted access to
26 the property due to the extremely strong and damaging winds.

27 (r) Any dwelling that qualified for an exemption under this
28 section prior to the commencement dates of the wildfires listed in
29 the Governor’s disaster proclamations of May, June, or July 2008,
30 that was damaged or destroyed by the wildfires and any other
31 related casualty that occurred in the Counties of Butte, Kern,
32 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
33 Shasta, and Trinity and that has not changed ownership since the
34 commencement dates of these disasters as listed in the
35 proclamations shall not be disqualified as a “dwelling” or be denied
36 an exemption under this section solely on the basis that the
37 dwelling was temporarily damaged or destroyed or was being
38 reconstructed by the owner, or was temporarily uninhabited as a
39 result of restricted access to the property due to the wildfires.

1 (s) Any dwelling that qualified for an exemption under this
2 section prior to July 1, 2008, that was damaged or destroyed by
3 the wildfires and any other related casualty that occurred as a result
4 of this disaster in the County of Santa Barbara, as declared by the
5 Governor in July 2008, and that has not changed ownership since
6 July 1, 2008, may not be denied an exemption solely on the basis
7 that the dwelling was temporarily damaged or destroyed or was
8 being reconstructed by the owner, or was temporarily uninhabited
9 as a result of restricted access to the property due to the wildfires.

10 (t) Any dwelling that qualified for an exemption under this
11 section prior to July 12, 2008, that was damaged or destroyed by
12 severe rainstorms, floods, landslides, or the accumulation of debris
13 in a disaster, as declared by the Governor, in July 2008, and that
14 has not changed ownership since July 12, 2008, shall not be
15 disqualified as a “dwelling” or be denied an exemption under this
16 section solely on the basis that the dwelling was temporarily
17 damaged or destroyed or was being reconstructed by the owner,
18 or was temporarily uninhabited as a result of restricted access to
19 the property due to floods, landslides, the accumulation of debris,
20 or washed-out or damaged roads.

21 (u) Any dwelling that qualified for an exemption under this
22 section prior to May 22, 2008, that was damaged or destroyed by
23 the wildfires and any other related casualty that occurred as a result
24 of this disaster in the County of Humboldt, as declared by the
25 Governor in August 2008, and that has not changed ownership
26 since May 22, 2008, may not be denied an exemption solely on
27 the basis that the dwelling was temporarily damaged or destroyed
28 or was being reconstructed by the owner, or was temporarily
29 uninhabited as a result of restricted access to the property due to
30 the wildfires.

31 (v) Any dwelling that qualified for an exemption under this
32 section prior to the commencement dates of the wildfires that were
33 the subject of the Governor’s disaster proclamations of October
34 13, 2008, and November 15, 2008, that was damaged or destroyed
35 by the wildfires and any other related casualty that occurred in the
36 Counties of Los Angeles and Ventura and that has not changed
37 ownership since the commencement dates of these wildfires, shall
38 not be disqualified as a “dwelling” or be denied an exemption
39 under this section solely on the basis that the dwelling was
40 temporarily damaged or destroyed or was being reconstructed by

1 the owner, or was temporarily uninhabited as a result of restricted
2 access to the property due to the wildfires.

3 (w) Any dwelling that qualified for an exemption under this
4 section prior to November 13, 2008, that was damaged or destroyed
5 by the wildfires and any other related casualty that occurred as a
6 result of this disaster in the County of Santa Barbara, as declared
7 by the Governor in November 2008, and that has not changed
8 ownership since November 13, 2008, shall not be disqualified as
9 a “dwelling” or be denied an exemption under this section solely
10 on the basis that the dwelling was temporarily damaged or
11 destroyed or was being reconstructed by the owner, or was
12 temporarily uninhabited as a result of restricted access to the
13 property due to the wildfires.

14 (x) Any dwelling that qualified for an exemption under this
15 section prior to the commencement dates of the wildfires listed in
16 the Governor’s disaster proclamations of November 15, 2008, and
17 November 17, 2008, that was damaged or destroyed by the
18 wildfires and any other related casualty that occurred as a result
19 of this disaster in the Counties of Orange, Riverside, and San
20 Bernardino, as declared by the Governor in November 2008, and
21 that has not changed ownership since the commencement dates of
22 these disasters as listed in the proclamations, shall not be
23 disqualified as a “dwelling” or be denied an exemption under this
24 section solely on the basis that the dwelling was temporarily
25 damaged or destroyed or was being reconstructed by the owner,
26 or was temporarily uninhabited as a result of restricted access to
27 the property due to the wildfires.

28 (y) Any dwelling that qualified for an exemption under this
29 section prior to May 5, 2009, that was damaged or destroyed by
30 the wildfires and any other related casualty that occurred as a result
31 of this disaster in the County of Santa Barbara, as declared by the
32 Governor in May 2009, and that has not changed ownership since
33 May 5, 2009, shall not be disqualified as a “dwelling” or be denied
34 an exemption under this section solely on the basis that the
35 dwelling was temporarily damaged or destroyed or was being
36 reconstructed by the owner, or was temporarily uninhabited as a
37 result of restricted access to the property due to the wildfires.

38 (z) *Any dwelling that qualified for an exemption under this*
39 *section prior to April 4, 2010, that was damaged or destroyed by*
40 *the earthquake and any other related casualty that occurred as a*

1 result of the disaster in the County of Imperial, as declared by the
2 Governor in April 2010, and that has not changed ownership since
3 April 4, 2010, shall not be disqualified as a “dwelling” or be
4 denied an exemption under this section solely on the basis that the
5 dwelling was temporarily damaged or destroyed or was being
6 reconstructed by the owner, or was temporarily uninhabited as a
7 result of restricted access to the property due to the earthquake.

8 ~~(z)~~

9 (aa) The exemption provided for in subdivision (k) of Section
10 3 of Article XIII of the California Constitution shall first be applied
11 to the building, structure, or other shelter and the excess, if any,
12 shall be applied to any land on which it may be located.

13 SEC. 5. Section 17207 of the Revenue and Taxation Code is
14 amended to read:

15 17207. (a) An excess disaster loss, as defined in subdivision
16 (c), shall be carried to other taxable years as provided in
17 subdivision (b), with respect to losses resulting from any of the
18 following disasters:

19 (1) Forest fire or any other related casualty occurring in 1985
20 in California.

21 (2) Storm, flooding, or any other related casualty occurring in
22 1986 in California.

23 (3) Any loss sustained during 1987 as a result of a forest fire or
24 any other related casualty.

25 (4) Earthquake, aftershock, or any other related casualty
26 occurring in 1987 in California.

27 (5) Earthquake, aftershock, or any other related casualty
28 occurring in 1989 in California.

29 (6) Any loss sustained during 1990 as a result of fire or any
30 other related casualty in California.

31 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
32 of 1991, or any other related casualty.

33 (8) Any loss sustained as a result of storm, flooding, or any
34 other related casualty occurring in February 1992 in California.

35 (9) Earthquake, aftershock, or any other related casualty
36 occurring in April 1992 in the County of Humboldt.

37 (10) Riots, arson, or any other related casualty occurring in
38 April or May 1992 in California.

1 (11) Any loss sustained as a result of the earthquakes that
2 occurred in the County of San Bernardino in June and July of 1992,
3 or any other related casualty.

4 (12) Any loss sustained as a result of the Fountain Fire that
5 occurred in the County of Shasta, or as a result of either of the
6 fires in the Counties of Calaveras and Trinity that occurred in
7 August 1992, or any other related casualty.

8 (13) Any loss sustained as a result of storm, flooding, or any
9 other related casualty that occurred in the Counties of Alpine,
10 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
11 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
12 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
13 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
14 Fillmore in January 1993.

15 (14) Any loss sustained as a result of a fire that occurred in the
16 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
17 Diego, and Ventura, during October or November of 1993, or any
18 other related casualty.

19 (15) Any loss sustained as a result of the earthquake, aftershocks,
20 or any other related casualty that occurred in the Counties of Los
21 Angeles, Orange, and Ventura on or after January 17, 1994.

22 (16) Any loss sustained as a result of a fire that occurred in the
23 County of San Luis Obispo during August of 1994, or any other
24 related casualty.

25 (17) Any loss sustained as a result of the storms or flooding
26 occurring in 1995, or any other related casualty, sustained in any
27 county of this state subject to a disaster declaration with respect
28 to the storms and flooding.

29 (18) Any loss sustained as a result of the storms or flooding
30 occurring in December 1996 or January 1997, or any related
31 casualty, sustained in any county of this state subject to a disaster
32 declaration with respect to the storms or flooding.

33 (19) Any loss sustained as a result of the storms or flooding
34 occurring in February 1998, or any related casualty, sustained in
35 any county of this state subject to a disaster declaration with respect
36 to the storms or flooding.

37 (20) Any loss sustained as a result of a freeze occurring in the
38 winter of 1998–99, or any related casualty, sustained in any county
39 of this state subject to a disaster declaration with respect to the
40 freeze.

- 1 (21) Any loss sustained as a result of an earthquake occurring
2 in September 2000, that was included in the Governor's
3 proclamation of a state of emergency for the County of Napa.
- 4 (22) Any loss sustained as a result of the Middle River levee
5 break in San Joaquin County occurring in June 2004.
- 6 (23) Any losses sustained as a result of the fires that occurred
7 in the Counties of Los Angeles, Riverside, San Bernardino, San
8 Diego, and Ventura in October and November 2003, or as a result
9 of floods, mudflows, and debris flows, directly related to fires.
- 10 (24) Any losses sustained in the Counties of Santa Barbara and
11 San Luis Obispo as a result of the San Simeon earthquake,
12 aftershocks, and any other related casualties.
- 13 (25) Any losses sustained as a result of the wildfires that
14 occurred in Shasta County, commencing August 11, 2004, and
15 any other related casualty.
- 16 (26) Any loss sustained in the Counties of Kern, Los Angeles,
17 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
18 and Ventura as a result of the severe rainstorms, related flooding
19 and slides, and any other related casualties, that occurred in
20 December 2004, January 2005, February 2005, March 2005, or
21 June 2005.
- 22 (27) Any loss sustained in the Counties of Alameda, Alpine,
23 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
24 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
25 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
26 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
27 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
28 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
29 the severe rainstorms, related flooding and slides, and any other
30 related casualties, that occurred in December 2005, January 2006,
31 March 2006, or April 2006.
- 32 (28) Any loss sustained in the County of San Bernardino as a
33 result of the wildfires that occurred in July 2006.
- 34 (29) Any loss sustained in the Counties of Riverside and Ventura
35 as a result of wildfires that occurred during the 2006 calendar year.
- 36 (30) Any loss sustained in the Counties of El Dorado, Fresno,
37 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
38 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
39 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject

1 of the Governor's proclamations of a state of emergency for the
2 severe freezing conditions that occurred in January 2007.

3 (31) Any loss sustained in the County of El Dorado as a result
4 of wildfires that occurred in June 2007.

5 (32) Any loss sustained in the Counties of Santa Barbara and
6 Ventura as a result of the Zaca Fire that occurred during the 2007
7 calendar year.

8 (33) Any loss sustained in the County of Inyo as a result of
9 wildfires that commenced in July 2007.

10 (34) Any loss sustained in the Counties of Los Angeles, Orange,
11 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
12 as a result of wildfires that occurred during the 2007 calendar year
13 that were the subject of the Governor's disaster proclamations of
14 September 15, 2007, and October 21, 2007.

15 (35) Any loss sustained in the County of Riverside as a result
16 of extremely strong and damaging winds that occurred in October
17 2007.

18 (36) Any loss sustained in the Counties of Butte, Kern,
19 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
20 Shasta, and Trinity as a result of wildfires that occurred in May or
21 June 2008 that were the subject of the Governor's proclamations
22 of a state of emergency.

23 (37) Any loss sustained in the County of Santa Barbara as a
24 result of wildfires that occurred in July 2008.

25 (38) Any loss sustained in the County of Inyo as a result of the
26 severe rainstorms, related flooding and landslides, and any other
27 related casualties, that occurred in July 2008.

28 (39) Any loss sustained in the County of Humboldt as a result
29 of wildfires that commenced in May 2008.

30 (40) Any loss sustained in the County of Santa Barbara as a
31 result of wildfires that commenced in November 2008.

32 (41) Any loss sustained in the Counties of Los Angeles and
33 Ventura as a result of wildfires that commenced in October 2008
34 or November 2008 that were the subject of the Governor's
35 proclamations of a state of emergency.

36 (42) Any loss sustained in the Counties of Orange, Riverside,
37 and San Bernardino as a result of wildfires that commenced in
38 November 2008.

39 (43) Any loss sustained in the County of Santa Barbara as a
40 result of wildfires that commenced in May 2009.

1 (44) Any loss sustained in the County of Imperial as a result of
 2 the earthquake that occurred in April 2010.
 3 (b) (1) In the case of any loss allowed under Section 165(c) of
 4 the Internal Revenue Code, relating to limitation of losses of
 5 individuals, any excess disaster loss shall be carried forward to
 6 each of the five taxable years following the taxable year for which
 7 the loss is claimed. However, if there is any excess disaster loss
 8 remaining after the five-year period, then the applicable percentage,
 9 as set forth in paragraph (1) of subdivision (b) of Section 17276,
 10 of that excess disaster loss shall be carried forward to each of the
 11 next 10 taxable years.
 12 (2) The entire amount of any excess disaster loss as defined in
 13 subdivision (c) shall be carried to the earliest of the taxable years
 14 to which, by reason of subdivision (b), the loss may be carried.
 15 The portion of the loss which shall be carried to each of the other
 16 taxable years shall be the excess, if any, of the amount of excess
 17 disaster loss over the sum of the adjusted taxable income for each
 18 of the prior taxable years to which that excess disaster loss is
 19 carried.
 20 (c) “Excess disaster loss” means a disaster loss computed
 21 pursuant to Section 165 of the Internal Revenue Code which
 22 exceeds the adjusted taxable income of the year of loss or, if the
 23 election under Section 165(i) of the Internal Revenue Code is
 24 made, the adjusted taxable income of the year preceding the loss.
 25 (d) The provisions of this section and Section 165(i) of the
 26 Internal Revenue Code shall be applicable to any of the losses
 27 listed in subdivision (a) sustained in any county or city in this state
 28 which was proclaimed by the Governor to be in a state of disaster.
 29 (e) Losses allowable under this section may not be taken into
 30 account in computing a net operating loss deduction under Section
 31 172 of the Internal Revenue Code.
 32 (f) For purposes of this section, “adjusted taxable income” shall
 33 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.
 34 (g) For losses described in paragraphs (15) to ~~(43)~~ (44),
 35 inclusive, of subdivision (a), the election under Section 165(i) of
 36 the Internal Revenue Code may be made on a return or amended
 37 return filed on or before the due date of the return (determined
 38 with regard to extension) for the taxable year in which the disaster
 39 occurred.

1 *SEC. 6. Section 24347.5 of the Revenue and Taxation Code is*
2 *amended to read:*

3 24347.5. (a) An excess disaster loss, as defined in subdivision
4 (c), shall be carried to other taxable years as provided in
5 subdivision (b), with respect to losses resulting from any of the
6 following disasters:

7 (1) Forest fire or any other related casualty occurring in 1985
8 in California.

9 (2) Storm, flooding, or any other related casualty occurring in
10 1986 in California.

11 (3) Any loss sustained during 1987 as a result of a forest fire or
12 any other related casualty.

13 (4) Earthquake, aftershock, or any other related casualty
14 occurring in October 1987 in California.

15 (5) Earthquake, aftershock, or any other related casualty
16 occurring in October 1989 in California.

17 (6) Any loss sustained during 1990 as a result of fire or any
18 other related casualty in California.

19 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
20 of 1991, or any other related casualty.

21 (8) Any loss sustained as a result of storm, flooding, or any
22 other related casualty occurring in February 1992 in California.

23 (9) Earthquake, aftershock, or any other related casualty
24 occurring in April 1992 in the County of Humboldt.

25 (10) Riots, arson, or any other related casualty occurring in
26 April or May 1992 in California.

27 (11) Any loss sustained as a result of the earthquakes or any
28 other related casualty that occurred in the County of San
29 Bernardino in June and July of 1992.

30 (12) Any loss sustained as a result of the Fountain Fire that
31 occurred in the County of Shasta, or as a result of either of the
32 fires in the Counties of Calaveras and Trinity that occurred in
33 August 1992, or any other related casualty.

34 (13) Any loss sustained as a result of storm, flooding, or any
35 other related casualty that occurred in the Counties of Alpine,
36 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
37 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
38 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
39 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
40 Fillmore in January 1993.

- 1 (14) Any loss sustained as a result of a fire that occurred in the
2 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
3 Diego, and Ventura, during October or November of 1993, or any
4 other related casualty.
- 5 (15) Any loss sustained as a result of the earthquake, aftershocks,
6 or any other related casualty that occurred in the Counties of Los
7 Angeles, Orange, and Ventura on or after January 17, 1994.
- 8 (16) Any loss sustained as a result of a fire that occurred in the
9 County of San Luis Obispo during August of 1994, or any other
10 related casualty.
- 11 (17) Any loss sustained as a result of the storms or flooding
12 occurring in 1995, or any other related casualty, sustained in any
13 county of this state subject to a disaster declaration with respect
14 to the storms and flooding.
- 15 (18) Any loss sustained as a result of the storms or flooding
16 occurring in December 1996 or January 1997, or any related
17 casualty, sustained in any county of this state subject to a disaster
18 declaration with respect to the storms or flooding.
- 19 (19) Any loss sustained as a result of the storms or flooding
20 occurring in February 1998, or any related casualty, sustained in
21 any county of this state subject to a disaster declaration with respect
22 to the storms or flooding.
- 23 (20) Any loss sustained as a result of a freeze occurring in the
24 winter of 1998–99, or any related casualty, sustained in any county
25 of this state subject to a disaster declaration with respect to the
26 freeze.
- 27 (21) Any loss sustained as a result of an earthquake occurring
28 in September 2000, that was included in the Governor's
29 proclamation of a state of emergency for the County of Napa.
- 30 (22) Any loss sustained as a result of the Middle River levee
31 break in San Joaquin County occurring in June 2004.
- 32 (23) Any losses sustained as a result of the fires that occurred
33 in the Counties of Los Angeles, Riverside, San Bernardino, San
34 Diego, and Ventura in October and November 2003, or as a result
35 of floods, mudflows, and debris flows, directly related to fires.
- 36 (24) Any losses sustained in the Counties of Santa Barbara and
37 San Luis Obispo as a result of the San Simeon earthquake,
38 aftershocks, and any other related casualties.

1 (25) Any losses sustained as a result of the wildfires that
2 occurred in Shasta County, commencing August 11, 2004, and
3 any other related casualty.

4 (26) Any loss sustained in the Counties of Kern, Los Angeles,
5 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
6 and Ventura as a result of the severe rainstorms, related flooding
7 and slides, and any other related casualties, that occurred in
8 December 2004, January 2005, February 2005, March 2005, or
9 June 2005.

10 (27) Any loss sustained in the Counties of Alameda, Alpine,
11 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
12 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
13 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
14 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
15 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
16 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
17 the severe rainstorms, related flooding and slides, and any other
18 related casualties, that occurred in December 2005, January 2006,
19 March 2006, or April 2006.

20 (28) Any loss sustained in the County of San Bernardino as a
21 result of the wildfires that occurred in July 2006.

22 (29) Any loss sustained in the Counties of Riverside and Ventura
23 as a result of wildfires that occurred during the 2006 calendar year.

24 (30) Any loss sustained in the Counties of El Dorado, Fresno,
25 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
26 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
27 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
28 of the Governor's proclamations of a state of emergency for the
29 severe freezing conditions that occurred in January 2007.

30 (31) Any loss sustained in the County of El Dorado as a result
31 of wildfires that occurred in June 2007.

32 (32) Any loss sustained in the Counties of Santa Barbara and
33 Ventura as a result of the Zaca Fire that occurred during the 2007
34 calendar year.

35 (33) Any loss sustained in the County of Inyo as a result of
36 wildfires that commenced in July 2007.

37 (34) Any loss sustained in the Counties of Los Angeles, Orange,
38 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
39 as a result of wildfires that occurred during the 2007 calendar year

1 that were the subject of the Governor's disaster proclamations of
2 September 15, 2007, and October 21, 2007.

3 (35) Any loss sustained in the County of Riverside as a result
4 of extremely strong and damaging winds that occurred in October
5 2007.

6 (36) Any loss sustained in the Counties of Butte, Kern,
7 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
8 Shasta, and Trinity as a result of wildfires that occurred in May or
9 June 2008 that were the subject of the Governor's proclamations
10 of a state of emergency.

11 (37) Any loss sustained in the County of Santa Barbara as a
12 result of wildfires that occurred in July 2008.

13 (38) Any loss sustained in the County of Inyo as a result of the
14 severe rainstorms, related flooding and landslides, and any other
15 related casualties, that occurred in July 2008.

16 (39) Any loss sustained in the County of Humboldt as a result
17 of wildfires that commenced in May 2008.

18 (40) Any loss sustained in the County of Santa Barbara as a
19 result of wildfires that commenced in November 2008.

20 (41) Any loss sustained in the Counties of Los Angeles and
21 Ventura as a result of wildfires that commenced in October 2008
22 or November 2008 that were the subject of the Governor's
23 proclamations of a state of emergency.

24 (42) Any loss sustained in the Counties of Orange, Riverside,
25 and San Bernardino as a result of wildfires that commenced in
26 November 2008.

27 (43) Any loss sustained in the County of Santa Barbara as a
28 result of wildfires that commenced in May 2009.

29 (44) *Any loss sustained in the County of Imperial as a result of*
30 *the earthquake that occurred in April 2010.*

31 (b) (1) In the case of any loss allowed under Section 165 of the
32 Internal Revenue Code, relating to losses, any excess disaster loss
33 shall be carried forward to each of the five taxable years following
34 the taxable year for which the loss is claimed. However, if there
35 is any excess disaster loss remaining after the five-year period,
36 then the applicable percentage, as set forth in paragraph (1) of
37 subdivision (b) of Section 24416, of that excess disaster loss shall
38 be carried forward to each of the next 10 taxable years.

39 (2) The entire amount of any excess disaster loss as defined in
40 subdivision (c) shall be carried to the earliest of the taxable years

1 to which, by reason of subdivision (b), the loss may be carried.
2 The portion of the loss which shall be carried to each of the other
3 taxable years shall be the excess, if any, of the amount of excess
4 disaster loss over the sum of the net income for each of the prior
5 taxable years to which that excess disaster loss is carried.

6 (c) “Excess disaster loss” means a disaster loss computed
7 pursuant to Section 165 of the Internal Revenue Code, which
8 exceeds the net income of the year of loss or, if the election under
9 Section 165(i) of the Internal Revenue Code is made, the net
10 income of the year preceding the loss.

11 (d) The provisions of this section and Section 165(i) of the
12 Internal Revenue Code shall be applicable to any of the losses
13 listed in subdivision (a) sustained in any county or city in this state
14 which was proclaimed by the Governor to be in a state of disaster.

15 (e) Any corporation subject to the provisions of Section 25101
16 or 25101.15 that has disaster losses pursuant to this section, shall
17 determine the excess disaster loss to be carried to other taxable
18 years under the principles specified in Section 25108 relating to
19 net operating losses.

20 (f) Losses allowable under this section may not be taken into
21 account in computing a net operating loss deduction under Section
22 172 of the Internal Revenue Code.

23 (g) For losses described in paragraphs (15) to ~~(43)~~ (44),
24 inclusive, of subdivision (a), the election under Section 165(i) of
25 the Internal Revenue Code may be made on a return or amended
26 return filed on or before the due date of the return (determined
27 with regard to extension) for the taxable year in which the disaster
28 occurred.

29 *SEC. 7. It is the intent of the Legislature to provide in the*
30 *annual Budget Act those additional reimbursements to local*
31 *governments that, as a result of Section 4 of this act, are required*
32 *by Section 25 of Article XIII of the California Constitution.*

33 *SEC. 8. The Legislature finds and declares that this act fulfills*
34 *a statewide public purpose because of all of the following:*

35 (a) *The Governor of California has officially proclaimed a state*
36 *of emergency declaring that the earthquake that occurred within*
37 *the County of Imperial on April 4, 2010, constitutes conditions of*
38 *extreme peril to public health and safety to persons and property*
39 *within that county, thus qualifying affected persons for various*
40 *forms of governmental assistance and relief.*

1 (b) This act is consistent with, and supplements, the proclaimed
 2 disaster assistance and relief by providing necessary fiscal
 3 assistance and tax relief to affected jurisdictions and persons to
 4 allow them to maintain essential basic services and repair damage
 5 to, and restore, their homes and businesses.

6 SEC. 9. If the Commission on State Mandates determines that
 7 this act contains costs mandated by the state, reimbursement to
 8 local agencies and school districts for those costs shall be made
 9 pursuant to Part 7 (commencing with Section 17500) of Division
 10 4 of Title 2 of the Government Code.

11 SECTION 1. Section 65089.6 of the Government Code is
 12 amended to read:

13 65089.6. Failure to complete or implement a congestion
 14 management program shall not give rise to a cause of action against
 15 a city or county for failing to conform with its general plan, unless
 16 the city or county incorporates the congestion management program
 17 into the circulation and transportation element of its general plan.

18 SEC. 2. Section 65302 of the Government Code is amended
 19 to read:

20 65302. The general plan shall consist of a statement of
 21 development policies and shall include a diagram or diagrams and
 22 text setting forth objectives, principles, standards, and plan
 23 proposals. The plan shall include the following elements:

24 (a) A land use element that designates the proposed general
 25 distribution and general location and extent of the uses of the land
 26 for housing, business, industry, open space, including agriculture,
 27 natural resources, recreation, and enjoyment of scenic beauty,
 28 education, public buildings and grounds, solid and liquid waste
 29 disposal facilities, and other categories of public and private uses
 30 of land. The location and designation of the extent of the uses of
 31 the land for public and private uses shall consider the identification
 32 of land and natural resources pursuant to paragraph (3) of
 33 subdivision (d). The land use element shall include a statement of
 34 the standards of population density and building intensity
 35 recommended for the various districts and other territory covered
 36 by the plan. The land use element shall identify and annually
 37 review those areas covered by the plan that are subject to flooding
 38 identified by flood plain mapping prepared by the Federal
 39 Emergency Management Agency (FEMA) or the Department of

1 ~~Water Resources. The land use element shall also do both of the~~
2 ~~following:~~

3 ~~(1) Designate in a land use category that provides for timber~~
4 ~~production those parcels of real property zoned for timberland~~
5 ~~production pursuant to the California Timberland Productivity Act~~
6 ~~of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1~~
7 ~~of Division 1 of Title 5).~~

8 ~~(2) Consider the impact of new growth on military readiness~~
9 ~~activities carried out on military bases, installations, and operating~~
10 ~~and training areas, when proposing zoning ordinances or~~
11 ~~designating land uses covered by the general plan for land, or other~~
12 ~~territory adjacent to military facilities, or underlying designated~~
13 ~~military aviation routes and airspace.~~

14 ~~(A) In determining the impact of new growth on military~~
15 ~~readiness activities, information provided by military facilities~~
16 ~~shall be considered. Cities and counties shall address military~~
17 ~~impacts based on information from the military and other sources.~~

18 ~~(B) The following definitions govern this paragraph:~~

19 ~~(i) "Military readiness activities" mean all of the following:~~

20 ~~(I) Training, support, and operations that prepare the men and~~
21 ~~women of the military for combat.~~

22 ~~(II) Operation, maintenance, and security of any military~~
23 ~~installation.~~

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

26 ~~(ii) "Military installation" means a base, camp, post, station,~~
27 ~~yard, center, homeport facility for any ship, or other activity under~~
28 ~~the jurisdiction of the United States Department of Defense as~~
29 ~~defined in paragraph (1) of subsection (e) of Section 2687 of Title~~
30 ~~10 of the United States Code.~~

31 ~~(b) (1) A circulation and transportation element consisting of~~
32 ~~the general location and extent of existing and proposed major~~
33 ~~thoroughfares, transportation routes, terminals, any military airports~~
34 ~~and ports, and other local public utilities and facilities, all correlated~~
35 ~~with the land use element of the plan.~~

36 ~~(2) (A) Commencing January 1, 2011, upon any substantive~~
37 ~~revision of the circulation and transportation element, the~~
38 ~~legislative body shall modify the circulation and transportation~~
39 ~~element to plan for a balanced, multimodal transportation network~~
40 ~~that meets the needs of all users of streets, roads, and highways~~

1 for safe and convenient travel in a manner that is suitable to the
2 rural, suburban, or urban context of the general plan.

3 (B) For purposes of this paragraph, “users of streets, roads, and
4 highways” means bicyclists, children, persons with disabilities,
5 motorists, movers of commercial goods, pedestrians, users of public
6 transportation, and seniors.

7 (e) A housing element as provided in Article 10.6 (commencing
8 with Section 65580).

9 (d) (1) A conservation element for the conservation,
10 development, and utilization of natural resources including water
11 and its hydraulic force, forests, soils, rivers and other waters,
12 harbors, fisheries, wildlife, minerals, and other natural resources.
13 The conservation element shall consider the effect of development
14 within the jurisdiction, as described in the land use element, on
15 natural resources located on public lands, including military
16 installations. That portion of the conservation element including
17 waters shall be developed in coordination with any countywide
18 water agency and with all district and city agencies, including
19 flood management, water conservation, or groundwater agencies
20 that have developed, served, controlled, managed, or conserved
21 water of any type for any purpose in the county or city for which
22 the plan is prepared. Coordination shall include the discussion and
23 evaluation of any water supply and demand information described
24 in Section 65352.5, if that information has been submitted by the
25 water agency to the city or county.

26 (2) The conservation element may also cover all of the
27 following:

28 (A) The reclamation of land and waters.

29 (B) Prevention and control of the pollution of streams and other
30 waters.

31 (C) Regulation of the use of land in stream channels and other
32 areas required for the accomplishment of the conservation plan.

33 (D) Prevention, control, and correction of the erosion of soils,
34 beaches, and shores.

35 (E) Protection of watersheds.

36 (F) The location, quantity and quality of the rock, sand and
37 gravel resources.

38 (3) Upon the next revision of the housing element on or after
39 January 1, 2009, the conservation element shall identify rivers,
40 creeks, streams, flood corridors, riparian habitats, and land that

1 ~~may accommodate floodwater for purposes of groundwater~~
2 ~~recharge and stormwater management.~~

3 ~~(e) An open-space element as provided in Article 10.5~~
4 ~~(commencing with Section 65560).~~

5 ~~(f) (1) A noise element that shall identify and appraise noise~~
6 ~~problems in the community. The noise element shall recognize the~~
7 ~~guidelines established by the Office of Noise Control and shall~~
8 ~~analyze and quantify, to the extent practicable, as determined by~~
9 ~~the legislative body, current and projected noise levels for all of~~
10 ~~the following sources:~~

11 ~~(A) Highways and freeways.~~

12 ~~(B) Primary arterials and major local streets.~~

13 ~~(C) Passenger and freight on-line railroad operations and ground~~
14 ~~rapid transit systems.~~

15 ~~(D) Commercial, general aviation, heliport, helistop, and military~~
16 ~~airport operations, aircraft overflights, jet engine test stands, and~~
17 ~~all other ground facilities and maintenance functions related to~~
18 ~~airport operation.~~

19 ~~(E) Local industrial plants, including, but not limited to, railroad~~
20 ~~classification yards.~~

21 ~~(F) Other ground stationary noise sources, including, but not~~
22 ~~limited to, military installations, identified by local agencies as~~
23 ~~contributing to the community noise environment.~~

24 ~~(2) Noise contours shall be shown for all of these sources and~~
25 ~~stated in terms of community noise equivalent level (CNEL) or~~
26 ~~day-night average level (L_{dn}). The noise contours shall be prepared~~
27 ~~on the basis of noise monitoring or following generally accepted~~
28 ~~noise modeling techniques for the various sources identified in~~
29 ~~subparagraphs (A) to (F), inclusive, of paragraph (1).~~

30 ~~(3) The noise contours shall be used as a guide for establishing~~
31 ~~a pattern of land uses in the land use element that minimizes the~~
32 ~~exposure of community residents to excessive noise.~~

33 ~~(4) The noise element shall include implementation measures~~
34 ~~and possible solutions that address existing and foreseeable noise~~
35 ~~problems, if any. The adopted noise element shall serve as a~~
36 ~~guideline for compliance with the state's noise insulation standards.~~

37 ~~(g) (1) A safety element for the protection of the community~~
38 ~~from any unreasonable risks associated with the effects of~~
39 ~~seismically induced surface rupture, ground shaking, ground~~
40 ~~failure, tsunami, seiche, and dam failure; slope instability leading~~

1 to mudslides and landslides; subsidence, liquefaction, and other
2 seismic hazards identified pursuant to Chapter 7.8 (commencing
3 with Section 2690) of Division 2 of the Public Resources Code;
4 and other geologic hazards known to the legislative body; flooding;
5 and wildland and urban fires. The safety element shall include
6 mapping of known seismic and other geologic hazards. It shall
7 also address evacuation routes, military installations, peakload
8 water supply requirements, and minimum road widths and
9 clearances around structures, as those items relate to identified fire
10 and geologic hazards.

11 (2) The safety element, upon the next revision of the housing
12 element on or after January 1, 2009, shall also do the following:

13 (A) Identify information regarding flood hazards, including,
14 but not limited to, the following:

15 (i) Flood hazard zones. As used in this subdivision, “flood
16 hazard zone” means an area subject to flooding that is delineated
17 as either a special hazard area or an area of moderate or minimal
18 hazard on an official flood insurance rate map issued by the Federal
19 Emergency Management Agency. The identification of a flood
20 hazard zone does not imply that areas outside the flood hazard
21 zones or uses permitted within flood hazard zones will be free
22 from flooding or flood damage.

23 (ii) National Flood Insurance Program maps published by
24 FEMA.

25 (iii) Information about flood hazards that is available from the
26 United States Army Corps of Engineers.

27 (iv) Designated floodway maps that are available from the
28 Central Valley Flood Protection Board.

29 (v) Dam failure inundation maps prepared pursuant to Section
30 8589.5 that are available from the California Emergency
31 Management Agency.

32 (vi) Awareness Floodplain Mapping Program maps and 200-year
33 flood plain maps that are or may be available from, or accepted
34 by, the Department of Water Resources.

35 (vii) Maps of levee protection zones.

36 (viii) Areas subject to inundation in the event of the failure of
37 project or nonproject levees or floodwalls.

38 (ix) Historical data on flooding, including locally prepared maps
39 of areas that are subject to flooding, areas that are vulnerable to

1 ~~flooding after wildfires, and sites that have been repeatedly~~
2 ~~damaged by flooding.~~
3 ~~(x) Existing and planned development in flood hazard zones,~~
4 ~~including structures, roads, utilities, and essential public facilities.~~
5 ~~(xi) Local, state, and federal agencies with responsibility for~~
6 ~~flood protection, including special districts and local offices of~~
7 ~~emergency services.~~
8 ~~(B) Establish a set of comprehensive goals, policies, and~~
9 ~~objectives based on the information identified pursuant to~~
10 ~~subparagraph (A), for the protection of the community from the~~
11 ~~unreasonable risks of flooding, including, but not limited to:~~
12 ~~(i) Avoiding or minimizing the risks of flooding to new~~
13 ~~development.~~
14 ~~(ii) Evaluating whether new development should be located in~~
15 ~~flood hazard zones, and identifying construction methods or other~~
16 ~~methods to minimize damage if new development is located in~~
17 ~~flood hazard zones.~~
18 ~~(iii) Maintaining the structural and operational integrity of~~
19 ~~essential public facilities during flooding.~~
20 ~~(iv) Locating, when feasible, new essential public facilities~~
21 ~~outside of flood hazard zones, including hospitals and health care~~
22 ~~facilities, emergency shelters, fire stations, emergency command~~
23 ~~centers, and emergency communications facilities or identifying~~
24 ~~construction methods or other methods to minimize damage if~~
25 ~~these facilities are located in flood hazard zones.~~
26 ~~(v) Establishing cooperative working relationships among public~~
27 ~~agencies with responsibility for flood protection.~~
28 ~~(C) Establish a set of feasible implementation measures designed~~
29 ~~to carry out the goals, policies, and objectives established pursuant~~
30 ~~to subparagraph (B).~~
31 ~~(3) After the initial revision of the safety element pursuant to~~
32 ~~paragraph (2), upon each revision of the housing element, the~~
33 ~~planning agency shall review and, if necessary, revise the safety~~
34 ~~element to identify new information that was not available during~~
35 ~~the previous revision of the safety element.~~
36 ~~(4) Cities and counties that have flood plain management~~
37 ~~ordinances that have been approved by FEMA that substantially~~
38 ~~comply with this section, or have substantially equivalent~~
39 ~~provisions to this subdivision in their general plans, may use that~~
40 ~~information in the safety element to comply with this subdivision,~~

1 and shall summarize and incorporate by reference into the safety
2 element the other general plan provisions or the flood plain
3 ordinance, specifically showing how each requirement of this
4 subdivision has been met.

5 (5) Prior to the periodic review of its general plan and prior to
6 preparing or revising its safety element, each city and county shall
7 consult the California Geological Survey of the Department of
8 Conservation, the Central Valley Flood Protection Board, if the
9 city or county is located within the boundaries of the Sacramento
10 and San Joaquin Drainage District, as set forth in Section 8501 of
11 the Water Code, and the California Emergency Management
12 Agency for the purpose of including information known by and
13 available to the department, the office agency, and the board
14 required by this subdivision.

15 (6) To the extent that a county's safety element is sufficiently
16 detailed and contains appropriate policies and programs for
17 adoption by a city, a city may adopt that portion of the county's
18 safety element that pertains to the city's planning area in
19 satisfaction of the requirement imposed by this subdivision.

20 SEC. 3. Section 66484 of the Government Code is amended
21 to read:

22 66484. (a) A local ordinance may require the payment of a
23 fee as a condition of approval of a final map or as a condition of
24 issuing a building permit for purposes of defraying the actual or
25 estimated cost of constructing bridges over waterways, railways,
26 freeways, and canyons, or constructing major thoroughfares. The
27 ordinance may require payment of fees pursuant to this section if
28 all of the following requirements are satisfied:

29 (1) The ordinance refers to the circulation and transportation
30 element of the general plan and, in the case of bridges, to the
31 transportation or flood control provisions thereof which identify
32 railways, freeways, streams, or canyons for which bridge crossings
33 are required on the general plan or local roads and in the case of
34 major thoroughfares, to the provisions of the circulation and
35 transportation element which identify those major thoroughfares
36 whose primary purpose is to carry through traffic and provide a
37 network connecting to the state highway system, if the circulation
38 and transportation element, transportation or flood control
39 provisions have been adopted by the local agency 30 days prior
40 to the filing of a map or application for a building permit.

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

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

30 ~~(4) The ordinance provides that payment of fees shall not be~~
31 ~~required unless the major thoroughfares are in addition to, or a~~
32 ~~reconstruction of, any existing major thoroughfares serving the~~
33 ~~area at the time of the adoption of the boundaries of the area of~~
34 ~~benefit.~~

35 ~~(5) The ordinance provides that payment of fees shall not be~~
36 ~~required unless the planned bridge facility is an original bridge~~
37 ~~facility serving the area or an addition to any existing bridge facility~~
38 ~~serving the area at the time of the adoption of the boundaries of~~
39 ~~the area of benefit. The fees shall not be expended to reimburse~~
40 ~~the cost of existing bridge facility construction.~~

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

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

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

28 ~~(d) Nothing in this section precludes the processing and~~
29 ~~recordation of maps in accordance with other provisions of this~~
30 ~~division if the proceedings are abandoned.~~

31 ~~(e) Fees paid pursuant to an ordinance adopted pursuant to this~~
32 ~~section shall be deposited in a planned bridge facility or major~~
33 ~~thoroughfare fund. A fund shall be established for each planned~~
34 ~~bridge facility project or each planned major thoroughfare project.~~
35 ~~If the benefit area is one in which more than one bridge is required~~
36 ~~to be constructed, a fund may be so established covering all of the~~
37 ~~bridge projects in the benefit area. Money in the fund shall be~~
38 ~~expended solely for the construction or reimbursement for~~
39 ~~construction of the improvement serving the area to be benefited~~
40 ~~and from which the fees comprising the fund were collected, or to~~

1 reimburse the local agency for the cost of constructing the
2 improvement.

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

5 (g) A local agency imposing fees pursuant to this section may
6 advance money from its general fund or road fund to pay the cost
7 of constructing the improvements and may reimburse the general
8 fund or road fund for any advances from planned bridge facility
9 or major thoroughfares funds established to finance the construction
10 of those improvements.

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

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

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

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

1 SEC. 4.— Section 66484.3 of the Government Code is amended
2 to read:

3 66484.3.— (a) Notwithstanding Section 53077.5, the Board of
4 Supervisors of the County of Orange and the city council or
5 councils of any city or cities in that county may, by ordinance,
6 require the payment of a fee as a condition of approval of a final
7 map or as a condition of issuing a building permit for purposes of
8 defraying the actual or estimated cost of constructing bridges over
9 waterways, railways, freeways, and canyons, or constructing major
10 thoroughfares.

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

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

28 (2) The ordinance provides that there will be a public hearing
29 held by the governing body for each area benefited. Notice shall
30 be given pursuant to Section 65905. In addition to the requirements
31 of Section 65905, the notice shall contain preliminary information
32 related to the boundaries of the area of benefit, estimated cost, and
33 the method of fee apportionment. The area of benefit may include
34 land or improvements in addition to the land or improvements
35 which are the subject of any map or building permit application
36 considered at the proceedings.

37 (3) The ordinance provides that at the public hearing, the
38 boundaries of the area of benefit, the costs, whether actual or
39 estimated, and a fair method of allocation of costs to the area of
40 benefit and fee apportionment are established. The method of fee

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

35 (4) The ordinance provides that payment of fees shall not be
36 required unless the major thoroughfares are in addition to, or a
37 reconstruction or widening of, any existing major thoroughfares
38 serving the area at the time of the adoption of the boundaries of
39 the area of 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 ~~servicing the area or an addition to any existing bridge facility~~
 4 ~~servicing the area at the time of the adoption of the boundaries of~~
 5 ~~the area of benefit. Fees imposed pursuant to this section shall not~~
 6 ~~be expended to reimburse the cost of existing bridge facility~~
 7 ~~construction, unless these costs are incurred in connection with~~
 8 ~~the construction of an addition to an existing bridge for which fees~~
 9 ~~may be required.~~

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

22 ~~Nothing in this section shall preclude the processing and~~
 23 ~~recording of maps in accordance with other provisions of this~~
 24 ~~division if proceedings are abandoned.~~

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

28 ~~If any majority protest is directed against only a portion of the~~
 29 ~~improvement then all further proceedings under the provisions of~~
 30 ~~this section to construct that portion of the improvement so~~
 31 ~~protested against shall be barred for a period of one year, but the~~
 32 ~~legislative body shall not be barred from commencing new~~
 33 ~~proceedings not including any part of the improvement or~~
 34 ~~acquisition so protested against. Nothing in this section shall~~
 35 ~~prohibit the legislative body, within the one-year period, from~~
 36 ~~commencing and carrying on new proceedings for the construction~~
 37 ~~of a portion of the improvement so protested against if it finds, by~~
 38 ~~the affirmative vote of four-fifths of its members, that the owners~~
 39 ~~of more than one-half of the area of the property to be benefited~~

1 are in favor of going forward with that portion of the improvement
2 or acquisition:

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

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

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

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

31 (f) ~~The county or a city imposing fees pursuant to this section~~
32 ~~may incur an interest-bearing indebtedness for the construction of~~
33 ~~bridge facilities or major thoroughfares. The sole security for~~
34 ~~repayment of the indebtedness shall be moneys in planned bridge~~
35 ~~facilities or major thoroughfares funds. A city or county imposing~~
36 ~~fees pursuant to this section may enter into joint exercise of powers~~
37 ~~agreements with other local agencies imposing fees pursuant to~~
38 ~~this section, for the purpose of, among others, jointly exercising~~
39 ~~as a duly authorized original power established by this section, in~~
40 ~~addition to those through a joint exercise of powers agreement,~~

1 those powers authorized in Chapter 5 (commencing with Section
2 31100) of Division 17 of the Streets and Highways Code for the
3 purpose of constructing bridge facilities and major thoroughfares
4 in lieu of a tunnel and appurtenant facilities, and, notwithstanding
5 Section 31200 of the Streets and Highways Code, may acquire by
6 dedication, gift, purchase, or eminent domain, any franchise, rights,
7 privileges, easements, or other interest in property, either real or
8 personal, necessary therefor on segments of the state highway
9 system, including, but not limited to, those segments of the state
10 highway system eligible for federal participation pursuant to Title
11 23 of the United States Code.

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

1 ~~executing the loan, the lending agency shall make all of the~~
2 ~~following findings:~~

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

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

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

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

30 ~~(g) The term "construction," as used in this section, includes~~
31 ~~design, acquisition of rights-of-way, and actual construction,~~
32 ~~including, but not limited to, all direct and indirect environmental,~~
33 ~~engineering, accounting, legal, administration of construction~~
34 ~~contracts, and other services necessary therefor. The term~~
35 ~~"construction" also includes reasonable general agency~~
36 ~~administrative expenses, not exceeding three hundred thousand~~
37 ~~dollars (\$300,000) in any calendar year after January 1, 1986, as~~
38 ~~adjusted annually for any increase or decrease in the Consumer~~
39 ~~Price Index of the Bureau of Labor Statistics of the United States~~
40 ~~Department of Labor for all Urban Consumers, Los Angeles-Long~~

1 ~~Beach-Anaheim, California (1967=100), as published by the United~~
2 ~~States Department of Commerce, by each agency created pursuant~~
3 ~~to Article 1 (commencing with Section 6500) of Chapter 5 of~~
4 ~~Division 7 of Title 1 for the purpose of constructing bridges and~~
5 ~~major thoroughfares. “General agency administrative expenses”~~
6 ~~means those office, personnel, and other customary and normal~~
7 ~~expenses associated with the direct management and administration~~
8 ~~of the agency, but not including costs of construction.~~

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

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

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

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

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

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

37 ~~SEC. 5. Section 99150 of the Public Utilities Code is amended~~
38 ~~to read:~~

39 ~~99150. In locating its bus stops, park and ride service facilities,~~
40 ~~and special service terminal points and stations, a transit district~~

1 shall consult with, and consider the recommendations of, the city
2 if those transit facilities are to be located therein, or the county if
3 those transit facilities are to be located in the unincorporated area
4 thereof, on the proposed locations.

5 The city or county, as the case may be, in making its
6 recommendations to the transit district on the proposed location
7 of those transit facilities, shall consider whether the proposed
8 location is consistent with the circulation and transportation
9 element of its general plan.

10 SEC. 6. Section 132359 of the Public Utilities Code is amended
11 to read:

12 132359. (a) The consolidated agency shall prepare and adopt
13 a multimodal surface transportation accessibility plan for airports
14 in San Diego County (airport multimodal accessibility plan) by
15 December 31, 2013. The airport multimodal accessibility plan
16 should be updated as necessary for the consolidated agency to
17 comply with Section 132360.2.

18 (b) The airport multimodal accessibility plan shall be prepared
19 in consultation with the San Diego County Regional Airport
20 Authority, San Diego County, the cities within San Diego County,
21 the transit operators within San Diego County, the Department of
22 Transportation, the civilian and military airport operators within
23 San Diego County, and airport operators in regions adjacent to
24 San Diego County.

25 (c) The consolidated agency, in consultation with the San Diego
26 County Regional Airport Authority, shall undertake and complete
27 a public participation process to aid in the preparation of the airport
28 multimodal accessibility plan. The public participation process
29 shall employ a procedure that includes a method of addressing and
30 responding to recommendations made by the public.

31 (d) The elements of the airport multimodal accessibility plan
32 shall include the following:

33 (1) The identification of multimodal transportation investments
34 that will improve surface transportation access to the airports in
35 San Diego County and to other counties, if appropriate. The
36 investments may include improvements that increase capacity
37 through the construction of new facilities, or modification to
38 existing facilities, and investments in operational improvements
39 that enhance the carrying capacity of existing facilities.

- 1 ~~(2) A program of investments and the anticipated schedule for~~
2 ~~the development of the projects that comprise the program.~~
- 3 ~~(3) A financial element that estimates for the period of the plan~~
4 ~~the amount of funding that can be expected, the likely revenue~~
5 ~~sources from which the funding will be derived, and the program~~
6 ~~of investments supported by the expected revenue. The financial~~
7 ~~element shall also contain recommendations for allocation of funds.~~
8 ~~The financial element may recommend the development of~~
9 ~~specified new sources of revenue, consistent with the policy~~
10 ~~element and action.~~
- 11 ~~(4) Other elements that further the development of the airport~~
12 ~~multimodal accessibility plan.~~
- 13 ~~(e) In preparing the airport multimodal accessibility plan, the~~
14 ~~consolidated agency shall consider the following:~~
- 15 ~~(1) The regional aviation strategic plan prepared by the San~~
16 ~~Diego County Regional Airport Authority.~~
- 17 ~~(2) The airport master plans of the civilian and military airport~~
18 ~~operators in the county.~~
- 19 ~~(3) The general plans and their circulation and transportation~~
20 ~~element of the cities within San Diego County and San Diego~~
21 ~~County.~~
- 22 ~~(4) The transit plans of the transit operators in San Diego~~
23 ~~County.~~
- 24 ~~(5) The highway system improvement plans and programs of~~
25 ~~the Department of Transportation.~~
- 26 ~~(6) The intercity passenger rail plans of the California~~
27 ~~High-Speed Rail Authority.~~
- 28 ~~(7) The interregional aviation and rail plans from the regions~~
29 ~~bordering San Diego County.~~
- 30 ~~(8) Other pertinent plans.~~
- 31 ~~(f) Not less than six months prior to the adoption of the airport~~
32 ~~multimodal accessibility plan, the consolidated agency shall~~
33 ~~circulate for review and comment the draft plan and its proposed~~
34 ~~recommendations to the San Diego County Regional Airport~~
35 ~~Authority, the operators of the remaining civilian and military~~
36 ~~airports in San Diego County, the cities within San Diego County~~
37 ~~in which an airport is located, San Diego County, the Department~~
38 ~~of Transportation, representatives of the tenants of the airports,~~
39 ~~and other interested parties.~~

1 ~~(g) Following adoption of the first airport multimodal~~
2 ~~accessibility plan, the San Diego County Regional Airport~~
3 ~~Authority shall submit updated airport land use compatibility plans~~
4 ~~to the consolidated agency for review prior to adoption of the~~
5 ~~revised airport land use compatibility plan by the San Diego County~~
6 ~~Regional Airport Authority. The board of directors of the~~
7 ~~consolidated agency shall review proposed airport land use~~
8 ~~compatibility plans and updates to the plans submitted by the San~~
9 ~~Diego County Regional Airport Authority and make a~~
10 ~~determination as to their compatibility with the airport multimodal~~
11 ~~accessibility plan. In the event the consolidated agency finds that~~
12 ~~the plans are incompatible with the airport multimodal accessibility~~
13 ~~plan, the consolidated agency shall return the plan to the San Diego~~
14 ~~County Regional Airport Authority with its findings. The San~~
15 ~~Diego County Regional Airport Authority shall make any necessary~~
16 ~~modifications to achieve compatibility and resubmit the plan to~~
17 ~~the consolidated agency for another compatibility review.~~

18 ~~(h) The regional aviation strategic plan shall be reviewed not~~
19 ~~less than every five years and shall be updated, as necessary, to~~
20 ~~comply with Section 132360.2.~~

21 ~~(i) The airport multimodal accessibility plan shall not limit the~~
22 ~~authority granted to the San Diego County Regional Airport~~
23 ~~Authority in subdivision (a) of Section 170048.~~

24 ~~SEC. 7. Section 75.9 of the Streets and Highways Code is~~
25 ~~amended to read:~~

26 ~~75.9. Upon the selection, adoption, and determination of the~~
27 ~~location for a state highway or freeway, the commission shall~~
28 ~~notify all planning agencies and legislative bodies having~~
29 ~~responsibility pursuant to Section 65300 of the Government Code~~
30 ~~for the adoption of the general plan or plans in the area affected~~
31 ~~by that commission action. Within 90 days after receipt of that~~
32 ~~notice, those planning agencies and legislative bodies shall revise~~
33 ~~the circulation and transportation element of their general plans~~
34 ~~to reflect the commission action.~~

35 ~~SEC. 8. Section 21101 of the Vehicle Code is amended to read:~~

36 ~~21101. Local authorities, for those highways under their~~
37 ~~jurisdiction, may adopt rules and regulations by ordinance or~~
38 ~~resolution on the following matters:~~

- 1 ~~(a) Closing any highway to vehicular traffic when, in the opinion~~
2 ~~of the legislative body having jurisdiction, the highway is either~~
3 ~~of the following:~~
- 4 ~~(1) No longer needed for vehicular traffic.~~
5 ~~(2) The closure is in the interests of public safety and all of the~~
6 ~~following conditions and requirements are met:~~
- 7 ~~(A) The street proposed for closure is located in a county with~~
8 ~~a population of 6,000,000 or more.~~
9 ~~(B) The street has an unsafe volume of traffic and a significant~~
10 ~~incidence of crime.~~
11 ~~(C) The affected local authority conducts a public hearing on~~
12 ~~the proposed street closure.~~
13 ~~(D) Notice of the hearing is provided to residents and owners~~
14 ~~of property adjacent to the street proposed for closure.~~
15 ~~(E) The local authority makes a finding that closure of the street~~
16 ~~likely would result in a reduced rate of crime.~~
- 17 ~~(b) Designating any highway as a through highway and requiring~~
18 ~~that all vehicles observe official traffic control devices before~~
19 ~~entering or crossing the highway or designating any intersection~~
20 ~~as a stop intersection and requiring all vehicles to stop at one or~~
21 ~~more entrances to the intersection.~~
- 22 ~~(c) Prohibiting the use of particular highways by certain vehicles,~~
23 ~~except as otherwise provided by the Public Utilities Commission~~
24 ~~pursuant to Article 2 (commencing with Section 1031) of Chapter~~
25 ~~5 of Part 1 of Division 1 of the Public Utilities Code.~~
- 26 ~~(d) Closing particular streets during regular school hours for~~
27 ~~the purpose of conducting automobile driver training programs in~~
28 ~~the secondary schools and colleges of this state.~~
- 29 ~~(e) Temporarily closing a portion of any street for celebrations,~~
30 ~~parades, local special events, and other purposes when, in the~~
31 ~~opinion of local authorities having jurisdiction or a public officer~~
32 ~~or employee that the local authority designates by resolution, the~~
33 ~~closing is necessary for the safety and protection of persons who~~
34 ~~are to use that portion of the street during the temporary closing.~~
- 35 ~~(f) Prohibiting entry to, or exit from, or both, from any street~~
36 ~~by means of islands, curbs, traffic barriers, or other roadway design~~
37 ~~features to implement the circulation and transportation element~~
38 ~~of a general plan adopted pursuant to Article 6 (commencing with~~
39 ~~Section 65350) of Chapter 3 of Division 1 of Title 7 of the~~
40 ~~Government Code. The rules and regulations authorized by this~~

1 subdivision shall be consistent with the responsibility of local
2 government to provide for the health and safety of its citizens.

3 SEC. 9. Section 35701 of the Vehicle Code is amended to read:

4 35701. (a) Any city, or county for a residence district, may,
5 by ordinance, prohibit the use of a street by any commercial vehicle
6 or by any vehicle exceeding a maximum gross weight limit, except
7 with respect to any vehicle which is subject to Sections 1031 to
8 1036, inclusive, of the Public Utilities Code, and except with
9 respect to vehicles used for the collection and transportation of
10 garbage, rubbish, or refuse using traditionally used routes in San
11 Diego County when the solid waste management plan prepared
12 under Section 66780.1 of the Government Code is amended to
13 designate each traditionally used route used for the purpose of
14 transporting garbage, rubbish, or refuse which intersects with a
15 local or regional arterial circulation route contained within a city
16 or county's circulation and transportation element and which
17 provides access to a solid waste disposal site.

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

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

27 (d) The solid waste management plan prepared under Section
28 66780.1 of the Government Code by San Diego County may
29 designate the traditionally used routes.

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

O