

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2754**

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**Introduced by Assembly Member John A. Pérez**

February 19, 2010

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An act to amend Sections ~~61041~~, 65038, 65040, 65040.2, and 65040.6 of, and to add Sections 65028.3 and 65039.5 to, *and to add Article 8 (commencing with Section 65055) to Chapter 1.5 of Division 1 of Title 7 of*, the Government Code, and to amend Sections 75121 and 75124 of the Public Resources Code, relating to land use and planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as amended, John A. Pérez. Land use and planning: Office of Planning and Research: Planning and State Clearinghouse Unit.

(1) The Planning and Zoning Law provides that the Office of Planning and Research is the comprehensive state planning agency, requires the office to serve the Governor and his or her cabinet as staff for long-range planning and research, and sets forth the various duties of the office. That law requires the Governor to appoint the Director of State Planning and Research, and the Director of State Planning and Research to head the office and carry out and effect all purposes vested by law in the office.

This bill would establish the Planning and State Clearinghouse Unit within the ~~Office of Planning and Research~~ *office*, and provide that the unit is under the direct control of the Director of the Planning and State Clearinghouse Unit. The bill would require the Director of the Planning

and State Clearinghouse Unit to oversee the work of the unit, and report directly to the Director of State Planning and Research.

The bill would authorize the Director of State Planning and Research, in accordance with constitutional provisions governing civil service, to employ and fix the compensation of the Director of the Planning and State Clearinghouse Unit and those officers and employees that the Director of State Planning and Research deems necessary for the effective conduct of the work of the unit. *The bill would prohibit the attainment of civil service status pursuant to this authorization prior to June 1, 2011, but would require the Department of Personnel Administration to begin preparation to convey civil service status pursuant to the authorization as of the operative date of the bill.*

This bill would delete certain statutory duties of the office, and transfer specified statutory duties, powers, and responsibilities of the office and the Director of State Planning and Research to the unit and the Director of the Planning and State Clearinghouse Unit. The bill would require the Director of the Planning and State Clearinghouse Unit to perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes prescribed to either the office or the unit by specified provisions of the Planning and Zoning Law, and require the Director of State Planning and Research to be responsible for the fulfillment of those duties and responsibilities, and the exercise of those powers.

(2) The Planning and Zoning Law requires the office, in conjunction with the Planning Advisory and Assistance Council, to evaluate plans and programs of state government, identify conflicts or omissions in those plans and programs, and recommend to the Governor and Legislature new actions to resolve those conflicts, advance statewide environmental goals, and ensure state policies and programs conform to adopted land use planning goals and programs.

This bill would transfer the above-described statutory duty from the office to the unit, and additionally require the unit to report to the Governor and the Legislature, *by no later than January 1, 2012, and by that date every two years thereafter, on its efforts to accomplish its duties in conjunction with the Planning Advisory and Assistance Council.*

(3) The Planning and Zoning Law also requires each transportation planning agency to prepare and adopt a regional transportation plan, including, among other things, a sustainable communities strategy prepared by each metropolitan planning organization, as specified.

This bill would require the unit to assist the State Air Resources Board in providing technical assistance to a local government in developing its sustainable communities strategy or alternative planning strategy.

(4) Existing law establishes the Strategic Growth Council in state government and requires the council to consist of specified state-government officials, including the Director of State Planning and Research.

This bill would require the council to be administered by the ~~Office of Planning and Research~~ office, and any remaining funds out of the existing appropriation to support the council as of January 1, 2011, to be transferred to the office to pay the costs of administration of the council.

This bill would also require the unit to work with the council to assist state and local entities in the planning of sustainable communities and in meeting the goals of the California Global Warming Solutions Act of 2006.

(5) *The Planning and Zoning Law requires the office to cooperate with the Department of Transportation and other federal, state, regional, and local agencies in the development of a long-range master plan for aviation, as specified.*

*This bill would require the office to serve as the state’s liaison with the United States Department of Defense in order to facilitate coordination regarding issues that are of significant interest to the department. The bill would require the office to perform specified duties in this capacity.*

~~(5) This bill would also make conforming changes to existing law.~~

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

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

- 1 SECTION 1. ~~Section 61041 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 61041. ~~Notwithstanding paragraph (1) of subdivision (b) of~~
- 4 ~~Section 65040, this section applies only to those districts that on~~
- 5 ~~December 31, 2005, had boards of directors that consisted of three~~
- 6 ~~members. Those districts shall continue to have boards of directors~~
- 7 ~~that consist of three members until the next general district election~~
- 8 ~~after January 1, 2006, after which date those districts shall have~~
- 9 ~~boards of directors that consist of five members. At that election,~~

1 ~~the voters shall fill the two vacancies on the board of directors.~~  
 2 ~~Those two members of the board of directors shall serve for the~~  
 3 ~~terms of office determined pursuant to Section 10506 of the~~  
 4 ~~Elections Code.~~

5 ~~SEC. 2.~~

6 *SECTION 1.* Section 65028.3 is added to the Government Code,  
 7 to read:

8 65028.3. “Unit” as used in this chapter, means the Planning  
 9 and State Clearing House Unit established pursuant to Section  
 10 65039.5.

11 ~~SEC. 3.~~

12 *SEC. 2.* Section 65038 of the Government Code is amended  
 13 to read:

14 65038. For the purpose of administering this chapter, the  
 15 Governor shall appoint the Director of State Planning and Research,  
 16 who shall be responsible for the performance of all duties, the  
 17 exercise of all powers, the assumption and discharge of all  
 18 responsibilities, and for carrying out and effecting all purposes  
 19 vested by law in the office, including contracting for professional  
 20 or consultant services in connection with the work of the office.

21 ~~SEC. 4.~~

22 *SEC. 3.* Section 65039.5 is added to the Government Code, to  
 23 read:

24 65039.5. (a) The Planning and State Clearinghouse Unit is  
 25 hereby established in state government in the Office of Planning  
 26 and Research. The unit shall be under the direct control of the  
 27 Director of the Planning and State Clearinghouse Unit, who shall  
 28 oversee all work of the unit and report directly to the Director of  
 29 State Planning and Research.

30 (b) The Director of State Planning and Research may employ  
 31 and fix the compensation, in accordance with Article VII of the  
 32 California Constitution, of the Director of the Planning and State  
 33 Clearinghouse Unit and those officers and employees that the  
 34 Director of State Planning and Research deems necessary for the  
 35 effective conduct of the work of the Planning and State  
 36 Clearinghouse Unit. *No officer or employee, including, but not*  
 37 *limited to, the Director of the Planning and State Clearinghouse*  
 38 *Unit, shall attain civil service status pursuant to this subdivision*  
 39 *prior to July 1, 2011. However, the Department of Personnel*  
 40 *Administration shall begin preparation to convey civil service*

1 *status pursuant to this subdivision on the operative date of the act*  
2 *that added this section.*

3 (c) Notwithstanding any contrary law, the Director of the  
4 Planning and State Clearinghouse Unit shall perform all duties,  
5 exercise all powers, assume and discharge all responsibilities, and  
6 carry out and effect all purposes prescribed by Sections 65040 to  
7 65053.7, inclusive, to either the office or the unit.

8 ~~SEC. 5.~~

9 *SEC. 4.* Section 65040 of the Government Code is amended  
10 to read:

11 65040. (a) The Office of Planning and Research shall serve  
12 the Governor and his or her Cabinet as staff for long-range planning  
13 and research, and constitute the comprehensive state planning  
14 agency.

15 (b) In order to discharge the duties of the office prescribed by  
16 subdivision (a), the Planning and State Clearinghouse Unit within  
17 the office shall do all of the following:

18 (1) Assisted by the Planning Advisory and Assistance Council  
19 established pursuant to subdivision (a) of Section 65040.6, engage  
20 in the formulation, evaluation and updating of long-range goals  
21 and policies for land use, population growth and distribution, urban  
22 expansion, development, open space, resource preservation and  
23 utilization, air and water quality, and other factors which shape  
24 statewide development patterns and significantly influence the  
25 quality of the state's environment.

26 (2) Assist in the orderly preparation by appropriate state  
27 departments and agencies of intermediate- and short-range  
28 functional plans to guide programs of transportation, water  
29 management, open space, recreation and other functions which  
30 relate to the protection and enhancement of the state's environment.

31 (3) By January 1, 2012, and annually thereafter, review the  
32 functional plans of each state department and agency to ensure  
33 consistency with the state planning priorities specified in Section  
34 65041.1. If a plan is determined to be inconsistent with the  
35 priorities, the unit shall make recommendations to the department  
36 or agency and the Legislature on what changes need to be made  
37 in order to make the plan consistent.

38 (4) (A) Biannually evaluate plans and programs of departments  
39 and agencies of state government, identify conflicts or omissions,  
40 and recommend to the Governor and the Legislature new state

1 policies, programs and actions, or amendments of existing  
2 programs, as required, to resolve conflicts, advance statewide  
3 environmental goals to respond to emerging environmental  
4 problems and opportunities, and to ensure that all state policies  
5 and programs conform to the adopted land use planning goals and  
6 programs.

7 (B) Report to the Governor and the Legislature on its efforts to  
8 accomplish the duties described in paragraph (1), no later than one  
9 year after the operative date of the act that added this paragraph  
10 to this section, and by that date every two years thereafter.

11 (5) Assist the Department of Finance in preparing, as part of  
12 the annual state budget, an integrated program of priority actions  
13 to implement state functional plans and to achieve statewide  
14 environmental goals and objectives and take other actions to assure  
15 that the program budget, submitted annually to the Legislature,  
16 contains information reporting the achievement of state goals and  
17 objectives by departments and agencies of state government.

18 (6) Coordinate, in conjunction with appropriate state, regional,  
19 and local agencies, the development of objectives, criteria and  
20 procedures for the orderly evaluation and report of the impact of  
21 public and private actions on the environmental quality of the state  
22 and as a guide to the preparation of environmental impact reports  
23 required of state and local agencies in Sections 21102 and 21150  
24 of the Public Resources Code.

25 (7) Coordinate research activities of state government directed  
26 to the growth and development of the state and the preservation  
27 of environmental quality, render advice to the Governor, his or  
28 her Cabinet, to the Legislature, and any agency or department of  
29 state government, and provide information to, and cooperate with,  
30 the Legislature or any of its committees or officers.

31 (8) Coordinate the technical assistance provided by state  
32 departments and agencies in regional and local planning to assure  
33 that such plans are consistent with statewide environmental goals  
34 and objectives and the state planning priorities specified in Section  
35 65041.1.

36 (9) Accept and allocate or expend grants and gifts from any  
37 source, public or private, for the purpose of state planning and  
38 undertake other planning and coordinating activities as will  
39 implement the policy and intent of the Legislature as set forth  
40 herein.

1 (10) By January 1, 2012, and every five years thereafter, develop  
2 long-range policies to assist the state and local agencies in meeting  
3 the problems presented by the growth and development of urban  
4 areas and defining the complementary roles of the state, cities,  
5 counties, school districts, and special districts with respect to such  
6 growth.

7 (11) Encourage the formation and proper functioning of, and  
8 provide planning assistance to, city, county, district, and regional  
9 planning agencies.

10 (12) Assist local government in land use planning.

11 (13) Assist the State Air Resources Board in providing technical  
12 assistance to a local government developing its sustainable  
13 communities strategy or alternative planning strategy pursuant to  
14 Section 65080.

15 (14) Work with the Strategic Growth Council to assist state and  
16 local entities in the planning of sustainable communities and in  
17 meeting the goals of the California Global Warming Solutions Act  
18 of 2006 (Division 25.5 (commencing with Section 38500) of the  
19 Health and Safety Code), including the provision of technical  
20 assistance to local governments eligible for grants and loans to  
21 support the planning and development of sustainable communities,  
22 pursuant to Section 75127, 75128, or 75129 of the Public Resources  
23 Code.

24 ~~SEC. 6.~~

25 *SEC. 5.* Section 65040.2 of the Government Code is amended  
26 to read:

27 65040.2. (a) In connection with its responsibilities under  
28 paragraph (11) of subdivision (b) of Section 65040, the unit shall  
29 develop and adopt guidelines for the preparation of and the content  
30 of the mandatory elements required in city and county general  
31 plans by Article 5 (commencing with Section 65300) of Chapter  
32 3. For purposes of this section, the guidelines prepared pursuant  
33 to Section 50459 of the Health and Safety Code shall be the  
34 guidelines for the housing element required by Section 65302. In  
35 the event that additional elements are hereafter required in city  
36 and county general plans by Article 5 (commencing with Section  
37 65300) of Chapter 3, the unit shall adopt guidelines for those  
38 elements within six months of the effective date of the legislation  
39 requiring those additional elements.

1 (b) The unit may request from each state department and agency,  
2 as it deems appropriate, and the department or agency shall provide,  
3 technical assistance in readopting, amending, or repealing the  
4 guidelines.

5 (c) The guidelines shall be advisory to each city and county in  
6 order to provide assistance in preparing and maintaining their  
7 respective general plans.

8 (d) The guidelines shall contain the guidelines for addressing  
9 environmental justice matters developed pursuant to Section  
10 65040.12.

11 (e) The guidelines shall contain advice including  
12 recommendations for best practices to allow for collaborative land  
13 use planning of adjacent civilian and military lands and facilities.  
14 The guidelines shall encourage enhanced land use compatibility  
15 between civilian lands and any adjacent or nearby military facilities  
16 through the examination of potential impacts upon one another.

17 (f) The guidelines shall contain advice for addressing the effects  
18 of civilian development on military readiness activities carried out  
19 on all of the following:

20 (1) Military installations.

21 (2) Military operating areas.

22 (3) Military training areas.

23 (4) Military training routes.

24 (5) Military airspace.

25 (6) Other territory adjacent to those installations and areas.

26 (g) By March 1, 2005, the guidelines shall contain advice,  
27 developed in consultation with the Native American Heritage  
28 Commission, for consulting with California Native American tribes  
29 for all of the following:

30 (1) The preservation of, or the mitigation of impacts to, places,  
31 features, and objects described in Sections 5097.9 and 5097.993  
32 of the Public Resources Code.

33 (2) Procedures for identifying through the Native American  
34 Heritage Commission the appropriate California Native American  
35 tribes.

36 (3) Procedures for continuing to protect the confidentiality of  
37 information concerning the specific identity, location, character,  
38 and use of those places, features, and objects.

1 (4) Procedures to facilitate voluntary landowner participation  
2 to preserve and protect the specific identity, location, character,  
3 and use of those places, features, and objects.

4 (h) Commencing January 1, 2009, but no later than January 1,  
5 2014, upon the next revision of the guidelines pursuant to  
6 subdivision (i), the unit shall prepare or amend guidelines for a  
7 legislative body to accommodate the safe and convenient travel  
8 of users of streets, roads, and highways in a manner that is suitable  
9 to the rural, suburban, or urban context of the general plan, pursuant  
10 to subdivision (b) of Section 65302.

11 (1) In developing guidelines, the unit shall consider how  
12 appropriate accommodation varies depending on its transportation  
13 and land use context, including urban, suburban, or rural  
14 environments.

15 (2) The unit may consult with leading transportation experts  
16 including, but not limited to, bicycle transportation planners,  
17 pedestrian planners, public transportation planners, local air quality  
18 management districts, and disability and senior mobility planners.

19 (i) The unit shall provide for regular review and revision of the  
20 guidelines established pursuant to this section.

21 ~~SEC. 7.~~

22 *SEC. 6.* Section 65040.6 of the Government Code is amended  
23 to read:

24 65040.6. (a) The Planning Advisory and Assistance Council  
25 is hereby created within the office, the membership of which shall  
26 be as follows: three city representatives; three county  
27 representatives; one representative of each district, provided that  
28 at least two of the district representatives are representatives of  
29 metropolitan areawide planning organizations and that at least one  
30 of the district representatives is a representative of a  
31 nonmetropolitan planning organization; and one representative of  
32 Indian tribes and bands which have reservations or rancherias  
33 within California. The city and county representatives appointed  
34 pursuant to this subdivision shall be selected by the director from  
35 nominees submitted by the League of California Cities and by the  
36 California State Association of Counties. Representatives of  
37 areawide planning organizations appointed pursuant to this  
38 subdivision shall be selected by the director from nominees  
39 submitted by the several areawide planning organizations within  
40 the state. Other district representatives shall be appointed by the

1 director. The representative of Indian tribes and bands shall be a  
2 member of one tribe or band, and shall be selected by the director.

3 Appointment to the advisory council shall be for a term of two  
4 years, provided that the members of the first council shall classify  
5 themselves by lot so that one-half shall serve an initial term of one  
6 year and one-half shall serve an initial term of two years. Vacancies  
7 shall be filled in the same manner provided for the original  
8 appointment.

9 (b) The council shall provide such advice as may be necessary  
10 to assist the unit in discharging the requirements of Sections 65040  
11 to 65040.4, inclusive. In particular, the council shall:

12 (1) Assist the unit in the preparation of the state long-range  
13 goals and policies, in the manner specified in paragraph (1) of  
14 subdivision (b) of Section 65040.

15 (2) Evaluate the planning functions of the various state agencies  
16 involved in planning, in the manner specified in paragraph (4) of  
17 subdivision (b) of Section 65040.

18 (3) Make appropriate decisions and provide advice and  
19 assistance as may be required by federal statute or regulation in  
20 connection with any federal program administered by the office.

21 (c) The council shall meet on call of the director of the office,  
22 who shall convene at least two council meetings during each year.

23 (d) Council members shall serve without compensation, but  
24 they may be reimbursed for actual expenses incurred in connection  
25 with their duties.

26 *SEC. 7. Article 8 (commencing with Section 65055) is added*  
27 *to Chapter 1.5 of Division 1 of Title 7 of the Government Code,*  
28 *to read:*

29  
30 *Article 8. Liaison to the United States Department of Defense*

31  
32 *65055. The Office of Planning and Research shall serve as the*  
33 *state's liaison with the United States Department of Defense in*  
34 *order to facilitate coordination regarding issues that are of*  
35 *significant interest to the department. In this role, the office shall*  
36 *do all of the following:*

37 (a) *Coordinate with the department to ensure the sustainability*  
38 *of defense activities within the state.*

39 (b) *Develop legislation that supports the relationship between*  
40 *the department and the state.*

1 (c) *Work with federal defense agencies to address regulatory*  
2 *activities by state agencies that affect the sustainability of defense*  
3 *operations within the state.*

4 (d) *Work with the heads of relevant agencies and departments*  
5 *to identify critical staff in the administration to facilitate*  
6 *cooperation between the state and the department.*

7 (e) *Work closely with representatives of the armed forces*  
8 *regarding issues of importance to the men and women in the*  
9 *military and their families living within the state.*

10 (f) *Serve as the administration's lead advocate on state and*  
11 *federal policies that impact members of the armed forces based*  
12 *within the state.*

13 SEC. 8. Section 75121 of the Public Resources Code is  
14 amended to read:

15 75121. (a) The Strategic Growth Council is hereby established  
16 in state government and it shall consist of the Director of State  
17 Planning and Research, the Secretary of the Natural Resources  
18 Agency, the Secretary for Environmental Protection, the Secretary  
19 of Business, Transportation and Housing, the Secretary of  
20 California Health and Human Services, and one member of the  
21 public to be appointed by the Governor. The public member shall  
22 have a background in land use planning, local government, resource  
23 protection and management, or community development or  
24 revitalization.

25 (b) Staff for the council shall be reflective of the council's  
26 membership.

27 (c) The council shall be administered by the Office of Planning  
28 and Research.

29 SEC. 9. Section 75124 of the Public Resources Code is  
30 amended to read:

31 75124. Of the funds made available pursuant to subdivisions  
32 (a) and (c) of Section 75065, the sum of five hundred thousand  
33 dollars (\$500,000) is hereby appropriated to the Natural Resources  
34 Agency to be used in support of the council and its activities in  
35 accordance with this chapter. Any remaining funds from this  
36 appropriation as of January 1, 2011, shall be transferred to the  
37 Office of Planning and Research for the administration of the  
38 council.

O