

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 406

Introduced by Senator DeSaulnier

February 26, 2009

An act to amend Section 65040.6 of, and to add Section 65083 to, the Government Code, to amend Section 75125 of the Public Resources Code, and to add Section 9250.6 to the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 406, as amended, DeSaulnier. Land use: environmental quality.

The Planning and Zoning Law establishes the Planning Advisory and Assistance Council in the Office of Planning and Research, and prescribes the membership and duties of the council. Existing law authorizes the Department of Motor Vehicles to collect a surcharge imposed on vehicle registration fees by ordinance or resolution of a local entity.

This bill would change the designated membership, as specified, of the Planning Advisory and Assistance Council and would require that the council work with the Strategic Growth Council, regional agencies, and cities and counties to facilitate the development and implementation of sustainable community strategies or regional blueprint projects, as specified plans. The bill would also require *the council to develop and propose recommendations to specified state agencies to facilitate coordination between regional blueprint plans and state growth and*

infrastructure funding plans and programs that facilitate the implementation of regional blueprint plans. The bill would further require the council to report to the Legislature on ~~specified~~ regional performance measures, as specified, and on the manner in which state agencies are implementing the 5-year infrastructure plan, as specified. The bill would authorize a municipal planning organization, as defined, a council of governments, as defined, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy to adopt a resolution to impose a surcharge of \$1 or \$2 on motor vehicles registered to an owner with an address in the entity's or entities' jurisdiction. The surcharge would be required to apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution, as specified, and to a renewal of registration with an expiration date on or after that 6-month period. The surcharge would be collected by the Department of Motor Vehicles and, after deducting its administrative costs, would be transmitted to the entity or entities imposing the surcharge. The bill would require the metropolitan planning organization, the council of governments, *the air district*, or the county transportation commission and the subregional council of governments jointly preparing a subregional sustainable communities strategy to contract with the department to pay for the initial setup and programming costs identified by the department, but would also require these costs to be reimbursed from surcharge revenues collected. The bill would require that *all revenue received pursuant to the above provisions be used by the metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy solely to develop and implement a sustainable communities strategy or a regional blueprint plan; the surcharge revenue that exceeds \$1 in specified jurisdictions to be used to provide grants to cities, counties, and cities and counties for planning and projects related to the implementation of a regional blueprint plan, and would specify that plan; and 5% of all the surcharge revenue be transmitted to the council for performance of specified functions.* The bill would provide that the council is to perform specified new functions only when the council has received sufficient revenue from this source.

The bill would authorize the Sacramento Metropolitan Air Quality District and the Bay Area Air Quality Management District to impose a surcharge of \$1 on a motor vehicle registered to an owner with an

address within its jurisdiction. The surcharge would be authorized to be imposed only if the air district adopts a resolution authorizing it. The surcharge would apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution by the air district and to a renewal of registration with an expiration date on or after that 6-month period. The bill would require all revenue received pursuant to this surcharge to be used to assist local and regional governments in reducing greenhouse gas emissions.

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. (a) The Legislature finds and declares the
2 following:
3 (1) Uncoordinated and unplanned growth together with a lack
4 of common goals to effect the public's interest in the conservation
5 and wise use of our lands pose a threat to the environment,
6 sustainable economic development, and the health, safety, and
7 high quality of life enjoyed by residents of this state.
8 (2) The enactment of Senate Bill 375 of the 2007–08 Regular
9 Session (Chapter 728 of the Statutes of 2008) and the establishment
10 of requirements for regional transportation plans to address
11 greenhouse gases can only be successfully implemented if regional
12 and local governments have the tools they need to collaboratively
13 plan for the type of growth that can achieve these goals, and if that
14 collaborative planning is coordinated with the efforts of the
15 Governor's Strategic Growth Council and other state agencies as
16 required by the enactment of Senate Bill 732 of the 2007–08
17 Regular Session (Chapter 729 of the Statutes of 2008).
18 (3) *Cooperation between regional and local governments and*
19 *air districts is essential to the achievement of the greenhouse gas*
20 *emission reductions envisioned in regional transportation plans.*
21 ~~(3)~~
22 (4) Therefore, it is in the public interest that state residents,
23 communities, local governments, *air districts*, and the private
24 sector cooperate and coordinate with one another in comprehensive,
25 sustainable land use planning.
26 (b) It is the intent of the Legislature to update the duties and
27 composition of the Planning Advisory and Assistance Council to

1 assist in the state's land use planning processes by providing
2 funding to support the development and implementation for
3 regional blueprints and related planning and to work with state
4 agencies providing funding for resource protection and local
5 infrastructure to facilitate coordination between state planning and
6 funding decisions and regional blueprints.

7 SEC. 2. Section 65040.6 of the Government Code is amended
8 to read:

9 65040.6. (a) The Planning Advisory and Assistance Council
10 is hereby created within the office, the membership of which shall
11 be as follows: three city representatives; three county
12 representatives; seven representatives of regional planning
13 organizations; one member of the State Air Resources Board; one
14 member of the California Transportation Commission; one member
15 of the State Energy Resource Conservation and Development
16 Commission; one member appointed by the Speaker of Assembly;
17 one member appointed by the Senate Committee on Rules; and
18 one representative of Indian tribes and bands which have
19 reservations or rancherias within California. The city and county
20 representatives appointed pursuant to this subdivision shall be
21 selected by the director from nominees submitted by the League
22 of California Cities and by the California State Association of
23 Counties. Representatives of regional planning organizations
24 appointed pursuant to this subdivision shall be selected by the
25 director from nominees submitted by the regional planning
26 organizations set forth in paragraphs (1) to (5), inclusive, of
27 subdivision (b) and from nominees submitted by the California
28 Association of Councils of Governments for the representatives
29 of organizations set forth in paragraphs (6) and (7) of subdivision
30 (b). The representative of Indian tribes and bands shall be a member
31 of one tribe or band, and shall be selected by the director.

32 Appointment to the advisory council shall be for a term of two
33 years, provided that the members of the first council shall classify
34 themselves by lot so that one-half shall serve an initial term of one
35 year and one-half shall serve an initial term of two years. Vacancies
36 shall be filled in the same manner provided for the original
37 appointment.

38 (b) Seven of the council's members shall be from the governing
39 body of each of the following:

40 (1) The Southern California Association of Governments.

1 (2) The Metropolitan Transportation Commission or the
2 Association of Bay Area Governments. The person appointed to
3 the council pursuant to this paragraph shall be a member of the
4 governing body for both the Metropolitan Transportation
5 Commission and the Association of Bay Area Governments.

6 (3) The San Diego Association of Governments.

7 (4) The Sacramento Area Council of Governments.

8 (5) The San Joaquin Valley Regional Policy Council.

9 (6) A metropolitan planning organization or council of
10 governments that is not identified in paragraphs (1) to (5),
11 inclusive.

12 (7) A regional transportation planning agency, as defined in
13 Section 65080, that is neither a metropolitan planning organization
14 nor a council of governments.

15 (c) The council shall provide such advice as may be necessary
16 to assist the office in discharging the requirements of Sections
17 65040 to 65040.4, inclusive. In particular, the council shall:

18 (1) Assist the office in the preparation of the state long-range
19 goals and policies, in the manner specified in subdivision (a) of
20 Section 65040.

21 (2) Evaluate the planning functions of the various state agencies
22 involved in planning, in the manner specified in subdivision (c)
23 of Section 65040.

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

27 (4) Work with the Strategic Growth Council, created pursuant
28 to Section 75121 of the Public Resources Code, regional agencies,
29 such as metropolitan planning organizations or councils of
30 governments, and with cities and counties to facilitate the
31 implementation of regional blueprint ~~projects~~ *plans*.

32 (5) Develop *and propose* recommendations to the Strategic
33 Growth Council, created pursuant to Section 75121 of the Public
34 Resources Code, the Department of General Services, the State
35 Allocation Board, the Department of Housing and Community
36 Development, the California Transportation Commission, ~~the~~
37 ~~California Housing and Finance Agency~~, and any other state
38 agencies *that affect land use, housing, or transportation* in order
39 to facilitate coordination between regional blueprint plans and

1 state growth and infrastructure funding plans *and programs that*
2 *facilitate the implementation of regional blueprint plans.*

3 (6) Receive reports, including, but not limited to, a copy of the
4 five-year infrastructure plan described in Section 13102.

5 (7) Report to the Legislature, in consultation and coordination
6 with the Strategic Growth Council, created pursuant to Section
7 75121 of the Public Resources Code, on the manner in which state
8 agencies are implementing the requirements of Chapter 1016 of
9 the Statutes of 2002.

10 (8) Report to the Legislature on regional performance measures,
11 evaluating the progress of each region of the state in improving
12 results for its residents in employment, environmental protection,
13 education, housing, mobility, and other criteria as determined by
14 the council. The council shall provide the Legislature with updates
15 to the report periodically, as the council determines is required.

16 (d) The council shall meet on call of the director of the office,
17 who shall convene at least two council meetings during each year.

18 (e) Council members shall serve without compensation, but
19 they may be reimbursed for actual expenses incurred in connection
20 with their duties.

21 (f) The council shall begin to perform the functions and other
22 duties set forth in paragraphs (4) to (8), inclusive, of subdivision
23 (c) when sufficient funding, as determined by the council, exists
24 from the revenue transmitted to it by metropolitan planning
25 organizations, councils of governments, or county transportation
26 commissions and subregional councils of governments jointly
27 preparing subregional sustainable communities strategies pursuant
28 to subdivision (b) of Section 65083.

29 SEC. 3. Section 65083 is added to the Government Code, to
30 read:

31 65083. (a) A metropolitan planning organization, as defined
32 in Section 134 of Title 23 of the United States Code, a council of
33 governments, as defined in Section 65582, or a county
34 transportation commission and a subregional council of
35 governments jointly preparing a subregional sustainable
36 communities strategy pursuant to subparagraph (C) of paragraph
37 (2) of subdivision (b) of Section 65080 may impose a surcharge
38 of one dollar (\$1) or two dollars (\$2) pursuant to Section 9250.6
39 of the Vehicle Code, on a motor vehicle registered to an owner
40 with an address in its jurisdiction. The surcharge may be imposed

only if the metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy adopts a resolution authorizing the surcharge. A resolution by the Metropolitan Transportation Commission or the Association of Bay Area Governments to impose the surcharge shall be jointly adopted by resolution of both of those entities, and the revenue from the surcharge shall be divided in accordance with an agreement between these two entities. A resolution by a county transportation commission or a subregional council of governments within the jurisdiction of the Southern California Association of Governments shall be jointly adopted by resolution of both of the entities, and the revenue from the surcharge shall be divided in accordance with an agreement between the two entities. The surcharge shall apply to an original vehicle registration occurring on or after six months following the adoption of the resolution by the metropolitan planning organization, council of governments, or a county transportation commission and a subregional council of governments jointly preparing a sustainable communities strategy and to a renewal of registration with an expiration date on or after that six-month period.

(b) All revenue received pursuant to ~~this section~~ *subdivision (a)* shall be used by the metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy solely to develop and implement a sustainable communities strategy or a regional blueprint plan to identify land use strategies to reduce the use of motor vehicles in its jurisdiction and thereby reduce emissions into the environment from motor vehicles. If the surcharge exceeds one dollar (\$1), all amounts above one dollar (\$1) in a jurisdiction with a population greater than 300,000 shall be used to provide grants to cities, counties, and cities and counties for planning and projects related to the implementation of a regional blueprint plan. The metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy shall transmit 5 percent of all surcharge revenue it receives pursuant to Section 9250.6 of the Vehicle Code

1 to the Planning Advisory and Assistance Council within the Office
2 of Planning and Research to perform the functions specified in
3 subdivision (f) of Section 65040.6.

4 *(c) The Sacramento Metropolitan Air Quality Management*
5 *District and the Bay Area Air Quality Management District, as*
6 *defined respectively in Sections 40980 and 40220 of the Health*
7 *and Safety Code, may each impose a surcharge of one dollar (\$1)*
8 *pursuant to Section 9250.6 of the Vehicle Code, on a motor vehicle*
9 *registered to an owner with an address within its jurisdiction. The*
10 *surcharge shall apply to an original vehicle registration occurring*
11 *on or after six months following the adoption of the resolution by*
12 *the air district and to a renewal of registration with an expiration*
13 *date on or after that six-month period.*

14 *(d) All revenue received pursuant to subdivision (c) shall be*
15 *used to assist local and regional governments in reducing*
16 *greenhouse gas emissions, including, but not limited to, all of the*
17 *following:*

18 *(1) Assistance in the development of a subregional sustainable*
19 *communities strategy.*

20 *(2) Assistance in the development of local greenhouse gas*
21 *emission inventories.*

22 *(3) Assistance in the development of greenhouse gas emission*
23 *reduction strategies in general plans.*

24 *(4) Development and assistance of CEQA guidelines and review*
25 *of greenhouse gas emissions in CEQA analyses.*

26 *(5) Consultation and development of local climate action plans.*

27 *(6) Project specific consultation work to reduce greenhouse gas*
28 *emissions from local transportation and land use decisions.*

29 ~~(e)~~

30 *(e) For purposes of this section, a sustainable communities*
31 *strategy and an alternative planning strategy shall both be*
32 *considered to be a regional blueprint.*

33 SEC. 4. Section 75125 of the Public Resources Code is
34 amended to read:

35 75125. The council shall do all of the following:

36 (a) Identify and review activities and funding programs of
37 member state agencies that may be coordinated to improve air and
38 water quality, improve natural resource protection, increase the
39 availability of affordable housing, improve transportation, meet
40 the goals of the California Global Warming Solutions Act of 2006

(Division 25.5 (commencing with Section 38500) of the Health and Safety Code), encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner. At a minimum, the council shall review and comment on the five-year infrastructure plan developed pursuant to Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of the Government Code and the State Environmental Goals and Policy Report developed pursuant to Section 65041 of the Government Code.

(b) Recommend policies and investment strategies and priorities to the Governor, the Legislature, and to appropriate state agencies to encourage the development of sustainable communities, such as those communities that promote equity, strengthen the economy, protect the environment, and promote public health and safety, and is consistent with subdivisions (a) and (c) of Section 75065.

(c) Provide, fund, and distribute data and information to local governments and regional agencies that will assist in developing and planning sustainable communities.

(d) Manage and award grants and loans to support the planning and development of sustainable communities, pursuant to Sections 75127, 75128, and 75129. To implement this subdivision, the council may do all of the following:

(1) Develop guidelines for awarding financial assistance, including criteria for eligibility and additional consideration.

(2) Develop criteria for determining the amount of financial assistance to be awarded. The council shall award a revolving loan to an applicant for a planning project, unless the council determines that the applicant lacks the fiscal capacity to carry out the project without a grant. The council may establish criteria that would allow the applicant to illustrate an ongoing commitment of financial resources to ensure the completion of the proposed plan or project.

(3) Provide for payments of interest on loans made pursuant to this article. The rate of interest shall not exceed the rate earned by the Pooled Money Investment Board.

(4) Provide for the time period for repaying a loan made pursuant to this article.

(5) Provide for the recovery of funds from an applicant that fails to complete the project for which financial assistance was awarded. The council shall direct the State Controller to recover funds by any available means.

1 (6) Provide technical assistance for application preparation.

2 (7) Designate a state agency or department to administer
3 technical and financial assistance programs for the disbursing of
4 grants and loans to support the planning and development of
5 sustainable communities, pursuant to Sections 75127, 75128, and
6 75129.

7 (e) No later than July 1, 2010, and every year thereafter, provide
8 a report to the Legislature that shall include, but is not limited to,
9 all of the following:

10 (1) A list of applicants for financial assistance.

11 (2) Identification of which applications were approved.

12 (3) The amounts awarded for each approved application.

13 (4) The remaining balance of available funds.

14 (5) A report on the proposed or ongoing management of each
15 funded project.

16 (6) Any additional minimum requirements and priorities for a
17 project or plan proposed in a grant or loan application developed
18 and adopted by the council pursuant to subdivision (c) of Section
19 75216.

20 (7) In making recommendations pursuant to subdivisions (a)
21 and (b) and in providing data and information pursuant to
22 subdivision (c), the council shall consult with and coordinate its
23 recommendations with the Planning Advisory and Assistance
24 Council created pursuant to Section 65040.6 of the Government
25 Code.

26 SEC. 5. Section 9250.6 is added to the Vehicle Code, to read:

27 9250.6. (a) In addition to any other fees specified in this code,
28 the Health and Safety Code, and the Revenue and Taxation Code,
29 a surcharge of one dollar (\$1) or two dollars (\$2) may be imposed
30 by a metropolitan planning organization, a council of governments,
31 or a county transportation commission and a subregional council
32 of governments jointly preparing a subregional sustainable
33 communities strategy pursuant to subparagraph (C) of paragraph
34 (2) of subdivision (b) of Section ~~65080~~, and 65080. *In addition to*
35 *any other fees specified in this code, the Health and Safety Code,*
36 *and the Revenue and Taxation Code, a surcharge of one dollar*
37 *(\$1) may be imposed by the Sacramento Metropolitan Air Quality*
38 *Management District and the Bay Area Air Quality Management*
39 *District. These fees shall be paid to the department as follows:*

1 (1) Upon initial registration on or after the date the department
2 begins collecting the fee for a motor vehicle not previously
3 registered in this state that is registered to an owner with an address
4 in the jurisdiction of the metropolitan planning organization, the
5 council of governments, *the air district*, or the county transportation
6 commission and the subregional council of governments jointly
7 preparing a subregional sustainable communities strategy
8 requesting imposition of the surcharge.

9 (2) Upon renewal of registration of a motor vehicle to an owner
10 with an address in the jurisdiction of the metropolitan planning
11 organization, the council of governments, *the air district*, or the
12 county transportation commission and the subregional council of
13 governments jointly preparing a subregional sustainable
14 communities strategy requesting imposition of the surcharge for
15 which the registration period expires after the date the department
16 begins collecting the fee.

17 (b) Prior to the adoption of a surcharge pursuant to this section,
18 the metropolitan planning organization, the council of governments,
19 *the air district*, or the county transportation commission and the
20 subregional council of governments jointly preparing a subregional
21 sustainable communities strategy shall approve the imposition of
22 the surcharge through the adoption of a resolution, as specified in
23 Section 65083 of the Government Code.

24 (c) The metropolitan planning organization, the council of
25 governments, *the air district*, or the county transportation
26 commission and the subregional council of governments jointly
27 preparing a subregional sustainable communities strategy shall
28 pay for the costs identified by the department to administer the
29 surcharge. After deducting those costs, the department shall
30 transmit the surcharge revenue quarterly to the metropolitan
31 planning organization, the council of governments, *the air district*,
32 or the county transportation commission and the subregional
33 council of governments jointly preparing a subregional sustainable
34 communities strategy.

35 (d) (1) The metropolitan planning organization, the council of
36 governments, *the air district*, or the county transportation
37 commission and the subregional council of governments jointly
38 preparing a subregional sustainable communities strategy shall
39 contract with the department to pay for the initial setup and
40 programming costs identified by the department.

1 (2) These initial setup and programming costs shall be
2 reimbursed to the metropolitan planning organization, the council
3 of governments, *the air district*, or the county transportation
4 commission and the subregional council of governments jointly
5 preparing a subregional sustainable communities strategy from
6 surcharge revenues collected.