

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 1098

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### Introduced by Assembly Member Bloom

February 27, 2015

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An act to amend ~~Section 65089~~ of Sections 65088.1, 65089, 65089.2, 65089.3, 65089.5, 65089.7, and 65089.10 of, to repeal Sections 65088.4, 65089.4, and 65089.9 of, and to repeal and add Section 65088 of, the Government Code, relating to transportation.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1098, as amended, Bloom. Transportation: congestion management.

~~Existing~~

(1) *Existing law requires a congestion management plan program to be developed, adopted, and updated biennially by a designated agency for every county that includes an urbanized area. The congestion management program is required to contain specified elements and to be submitted to regional agencies, as defined, for determination of whether the program is consistent with regional transportation plans. The designated agency is then directed to monitor the implementation of all elements of the congestion management program. The required elements include, among other things, traffic level of service standards for a system of designated highways and roadways, a performance element that includes performance measures, and a 7-year capital improvement program. A city or county is required to prepare a deficiency plan when highway or roadway level of service standards are not maintained on segments or intersections of the designated system*

and is required to submit its adopted deficiency plan to the designated agency.

~~This bill would make nonsubstantive changes to these provisions: delete the traffic level of service standards as an element of a congestion management program and would delete related requirements, including the requirement that a city or county prepare a deficiency plan when highway or roadway level of service standards are not maintained. The bill would revise and recast the requirements for other elements of a congestion management program by, among other things, requiring performance measures to include vehicle miles traveled, air emissions, and bicycle, transit, and pedestrian mode share and requiring the designated agency, for roadway capacity expansion projects, to include in the 7-year capital improvement program an analysis of the potential for induced vehicle travel.~~

~~The bill would require the regional agency to evaluate how the congestion management program contributes to achieving a specified greenhouse gas reduction target for the region established by the State Air Resources Board.~~

~~To the extent that the above-described requirements impose additional duties on designated agencies and regional agencies, this bill would impose a state-mandated local program.~~

~~(2) Existing law makes various legislative findings relative to congestion management programs.~~

~~This bill would delete those legislative findings and would make new legislative findings relative to congestion management programs.~~

~~(3) This bill would make other technical and conforming changes to these provisions and would delete an obsolete provision.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1     ~~SECTION 1. Section 65088 of the Government Code is~~  
2     ~~repealed.~~

3     ~~65088. The Legislature finds and declares all of the following:~~

4     ~~(a) Although California's economy is critically dependent upon~~  
5     ~~transportation, its current transportation system relies primarily~~  
6     ~~upon a street and highway system designed to accommodate far~~  
7     ~~fewer vehicles than are currently using the system.~~

8     ~~(b) California's transportation system is characterized by~~  
9     ~~fragmented planning, both among jurisdictions involved and among~~  
10    ~~the means of available transport.~~

11    ~~(c) The lack of an integrated system and the increase in the~~  
12    ~~number of vehicles are causing traffic congestion that each day~~  
13    ~~results in 400,000 hours lost in traffic, 200 tons of pollutants~~  
14    ~~released into the air we breathe, and three million one hundred~~  
15    ~~thousand dollars (\$3,100,000) added costs to the motoring public.~~

16    ~~(d) To keep California moving, all methods and means of~~  
17    ~~transport between major destinations must be coordinated to~~  
18    ~~connect our vital economic and population centers.~~

19    ~~(e) In order to develop the California economy to its full~~  
20    ~~potential, it is intended that federal, state, and local agencies join~~  
21    ~~with transit districts, business, private and environmental interests~~  
22    ~~to develop and implement comprehensive strategies needed to~~  
23    ~~develop appropriate responses to transportation needs.~~

24    ~~(f) In addition to solving California's traffic congestion crisis;~~  
25    ~~rebuilding California's cities and suburbs, particularly with~~  
26    ~~affordable housing and more walkable neighborhoods, is an~~  
27    ~~important part of accommodating future increases in the state's~~  
28    ~~population because homeownership is only now available to most~~  
29    ~~Californians who are on the fringes of metropolitan areas and far~~  
30    ~~from employment centers.~~

31    ~~(g) The Legislature intends to do everything within its power~~  
32    ~~to remove regulatory barriers around the development of infill~~  
33    ~~housing, transit-oriented development, and mixed use commercial~~  
34    ~~development in order to reduce regional traffic congestion and~~  
35    ~~provide more housing choices for all Californians.~~

36    ~~(h) The removal of regulatory barriers to promote infill housing;~~  
37    ~~transit-oriented development, or mixed use commercial~~  
38    ~~development does not preclude a city or county from holding a~~

~~public hearing nor finding that an individual infill project would be adversely impacted by the surrounding environment or transportation patterns.~~

SEC. 2. Section 65088 is added to the Government Code, to read:

65088. The Legislature finds and declares all of the following:

(a) With the adoption of Senate Bill 375 (Chapter 728 of the Statutes of 2008), the Sustainable Communities and Climate Protection Act of 2008, the Legislature signaled its commitment to encouraging land use and transportation planning decisions and investments that reduce vehicle miles traveled and contribute to the reductions in greenhouse gas emissions required pursuant to Assembly Bill 32 (Chapter 488 of the Statutes of 2006), the California Global Warming Solutions Act of 2006. Similarly, the California Complete Streets Act of 2008 (Chapter 657 of the Statutes of 2008) requires local governments to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel.

(b) In order to fulfill the commitment to reduce greenhouse gas emissions and vehicle miles traveled, make the most efficient use of urban land and transportation infrastructure, and improve public health, increasing the number of trips taken by public transit, bicycling, and walking must be a significant part of short- and long-term planning goals at the local, regional, and state levels.

(c) It is the intent of the Legislature to refocus the countywide congestion management planning process around developing an effective multimodal transportation system that enhances access to destinations while reducing vehicle miles traveled and greenhouse gas emissions and to better integrate congestion management planning with efforts to implement Assembly Bill 32, Senate Bill 375, and the Complete Streets Act.

SEC. 3. Section 65088.1 of the Government Code is amended to read:

65088.1. As used in this chapter the following terms have the following meanings:

(a) Unless the context requires otherwise, “agency” means the agency responsible for the preparation and adoption of the congestion management program.

(b) “Bus rapid transit corridor” means a bus service that includes at least four of the following attributes:

- (1) ~~Coordination with land use planning.~~
- (2) ~~Exclusive right-of-way.~~
- (3) ~~Improved passenger boarding facilities.~~
- (4) ~~Limited stops.~~
- (5) ~~Passenger boarding at the same height as the bus.~~
- (6) ~~Prepaid fares.~~
- (7) ~~Real-time passenger information.~~
- (8) ~~Traffic priority at intersections.~~
- (9) ~~Signal priority.~~
- (10) ~~Unique vehicles.~~

(c) “Commission” means the California Transportation Commission.

(d)

(e) “Department” means the Department of Transportation.

(f) “Infill opportunity zone” means a specific area designated by a city or county, pursuant to subdivision (c) of Section 65088.4, that is within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

(g) “Interregional travel” means any trips that originate outside the boundary of the agency. A “trip” means a one-direction vehicle movement. The origin of any trip is the starting point of that trip. A roundtrip consists of two individual trips.

(h) “Level of service standard” is a threshold that defines a deficiency on the congestion management program highway and roadway system which requires the preparation of a deficiency plan. It is the intent of the Legislature that the agency shall use all elements of the program to implement strategies and actions that avoid the creation of deficiencies and to improve multimodal mobility.

(i)

1 (d) “Local jurisdiction” means a city, a county, or a city and  
2 county.

3 (i) ~~“Multimodal” means the utilization of all available modes~~  
4 ~~of travel that enhance the movement of people and goods,~~  
5 ~~including, but not limited to, highway, transit, nonmotorized, and~~  
6 ~~demand management strategies including, but not limited to,~~  
7 ~~telecommuting. The availability and practicality of specific~~  
8 ~~multimodal systems, projects, and strategies may vary by county~~  
9 ~~and region in accordance with the size and complexity of different~~  
10 ~~urbanized areas.~~

11 (j)

12 (e) (1) “Parking cash-out program” means an employer-funded  
13 program under which an employer offers to provide a cash  
14 allowance to an employee equivalent to the parking subsidy that  
15 the employer would otherwise pay to provide the employee with  
16 a parking space. “Parking subsidy” means the difference between  
17 the out-of-pocket amount paid by an employer on a regular basis  
18 in order to secure the availability of an employee parking space  
19 not owned by the employer and the price, if any, charged to an  
20 employee for use of that space.

21 (2) A parking cash-out program may include a requirement that  
22 employee participants certify that they will comply with guidelines  
23 established by the employer designed to avoid neighborhood  
24 parking problems, with a provision that employees not complying  
25 with the guidelines will no longer be eligible for the parking  
26 cash-out program.

27 (k) ~~“Performance measure” is an analytical planning tool that~~  
28 ~~is used to quantitatively evaluate transportation improvements and~~  
29 ~~to assist in determining effective implementation actions,~~  
30 ~~considering all modes and strategies. Use of a performance measure~~  
31 ~~as part of the program does not trigger the requirement for the~~  
32 ~~preparation of deficiency plans.~~

33 (l)

34 (f) “Urbanized area” has the same meaning as is defined in the  
35 1990 federal census for urbanized areas of more than 50,000  
36 population.

37 (m)

38 (g) Unless the context requires otherwise, “regional agency”  
39 means the agency responsible for preparation of the regional  
40 transportation improvement program.

1     *SEC. 4. Section 65088.4 of the Government Code is repealed.*

2     ~~65088.4.— (a) It is the intent of the Legislature to balance the~~  
3 ~~need for level of service standards for traffic with the need to build~~  
4 ~~infill housing and mixed use commercial developments within~~  
5 ~~walking distance of mass transit facilities, downtowns, and town~~  
6 ~~centers and to provide greater flexibility to local governments to~~  
7 ~~balance these sometimes competing needs.~~

8     ~~(b) Notwithstanding any other provision of law, level of service~~  
9 ~~standards described in Section 65089 shall not apply to the streets~~  
10 ~~and highways within an infill opportunity zone.~~

11     ~~(c) The city or county may designate an infill opportunity zone~~  
12 ~~by adopting a resolution after determining that the infill opportunity~~  
13 ~~zone is consistent with the general plan and any applicable specific~~  
14 ~~plan, and is a transit priority area within a sustainable communities~~  
15 ~~strategy or alternative planning strategy adopted by the applicable~~  
16 ~~metropolitan planning organization.~~

17     SECTION 1.

18     *SEC. 5. Section 65089 of the Government Code is amended*  
19 *to read:*

20     65089. (a) A congestion management program shall be  
21 developed, adopted, and updated biennially, consistent with the  
22 schedule for adopting and updating the regional transportation  
23 improvement program, for every county that includes an urbanized  
24 area, and shall include every city and the county. The program  
25 shall be adopted at a noticed public hearing of the agency. The  
26 program shall be developed in consultation with, and with the  
27 cooperation of, the transportation planning agency, regional  
28 transportation providers, local governments, the department, and  
29 the air pollution control district or the air quality management  
30 district, either by the county transportation commission, or by  
31 another public agency, as designated by resolutions adopted by  
32 the county board of supervisors and the city councils of a majority  
33 of the cities representing a majority of the population in the  
34 incorporated area of the county.

35     (b) The program shall contain all of the following elements:

36     ~~(1) (A) Traffic level of service standards established for a~~  
37 ~~system of highways and roadways designated by the agency. The~~  
38 ~~highway and roadway system shall include at a minimum all state~~  
39 ~~highways and principal arterials. No highway or roadway~~  
40 ~~designated as a part of the system shall be removed from the~~

1 system. All new state highways and principal arterials shall be  
2 designated as part of the system, except when it is within an infill  
3 opportunity zone. Level of service (LOS) shall be measured by  
4 Circular 212, by the most recent version of the Highway Capacity  
5 Manual, or by a uniform methodology adopted by the agency that  
6 is consistent with the Highway Capacity Manual. The  
7 determination as to whether an alternative method is consistent  
8 with the Highway Capacity Manual shall be made by the regional  
9 agency, except that the department instead shall make this  
10 determination if either (i) the regional agency is also the agency,  
11 as those terms are defined in Section 65088.1, or (ii) the department  
12 is responsible for preparing the regional transportation  
13 improvement plan for the county.

14 (B) In no case shall the LOS standards established be below the  
15 level of service E or the current level, whichever is farthest from  
16 level of service A except when the area is in an infill opportunity  
17 zone. When the LOS on a segment or at an intersection fails to  
18 attain the established level of service standard outside an infill  
19 opportunity zone, a deficiency plan shall be adopted pursuant to  
20 Section 65089.4.

21 (2)

22 (1) A performance element that includes performance measures,  
23 as determined by the regional agency, to evaluate current and  
24 future multimodal system performance for the movement of people  
25 and goods. performance. At a minimum, these performance  
26 measures shall incorporate highway and roadway system  
27 performance, and measures established for the frequency and  
28 routing of public transit, and for the coordination of transit service  
29 provided by separate operators. include vehicle miles traveled, air  
30 emissions, and bicycle, transit, and pedestrian mode share. These  
31 performance measures shall support mobility, connectivity, air  
32 quality, land use, and economic objectives, and shall be used in  
33 the development of the capital improvement program required  
34 pursuant to paragraph (5), deficiency plans required pursuant to  
35 Section 65089.4, (4) and the land use analysis program required  
36 pursuant to paragraph (4). (3).

37 (3)

38 (2) A travel demand element that promotes alternative a broad  
39 range of transportation methods, options, including, but not limited  
40 to, carpools, vanpools, transit, bicycles, walking, and park-and-ride



lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4)

(3) A program to analyze the ~~impacts of interaction between~~ land use decisions made by local jurisdictions ~~on and the regional transportation systems, including an estimate of the costs associated with mitigating those impacts.~~ *system.* This program shall measure, *shall*, to the extent possible, the impact to the transportation system *analyze local land use and transportation decisions* using the performance measures described in paragraph (2). ~~In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel.~~ (1). The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. ~~The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), in order to avoid duplication.~~

(5)

(4) A seven-year capital improvement program, developed using the performance measures described in paragraph (2) ~~to determine effective~~ (1), *that includes* projects that maintain or improve the performance of the multimodal system for the movement of people and goods, ~~to mitigate regional transportation impacts identified pursuant to paragraph (4).~~ *goods.* The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to *or better than* that which existed prior to the improvement or alteration. *For roadway capacity expansion projects, the agency shall include an analysis of the potential for*

1 *induced vehicle travel*. The capital improvement program may  
2 also include safety, maintenance, and rehabilitation projects that  
3 do not enhance the capacity of the system but are necessary to  
4 preserve the investment in existing *and new* facilities.

5 (c) The agency, in consultation with the regional agency, cities,  
6 and the county, shall develop a uniform data base on traffic impacts  
7 for use in a countywide transportation computer model and shall  
8 approve transportation computer models of specific areas within  
9 the county that will be used by local jurisdictions to determine the  
10 quantitative impacts of development on the circulation system that  
11 are based on the countywide model and standardized modeling  
12 assumptions and conventions. The computer models shall be  
13 consistent with the modeling methodology adopted by the regional  
14 planning agency. The data bases used in the models shall be  
15 consistent with the data bases used by the regional planning agency.  
16 Where the regional agency has jurisdiction over two or more  
17 counties, the data bases used by the agency shall be consistent with  
18 the data bases used by the regional agency.

19 (d) (1) The city or county in which a commercial development  
20 will implement a parking cash-out program that is included in a  
21 congestion management program pursuant to subdivision ~~(b)~~, or  
22 ~~in a deficiency plan pursuant to Section 65089.4~~, (b) shall grant  
23 to that development an appropriate reduction in the parking  
24 requirements otherwise in effect for new commercial development.

25 (2) At the request of an existing commercial development that  
26 has implemented a parking cash-out program, the city or county  
27 shall grant an appropriate reduction in the parking requirements  
28 otherwise applicable based on the demonstrated reduced need for  
29 parking, and the space no longer needed for parking purposes may  
30 be used for other appropriate purposes.

31 (e) Pursuant to the federal Intermodal Surface Transportation  
32 Efficiency Act of 1991 and regulations adopted pursuant to the  
33 act, the department shall submit a request to the Federal Highway  
34 Administration Division Administrator to accept the congestion  
35 management program in lieu of development of a new congestion  
36 management system otherwise required by the act.

37 *SEC. 6. Section 65089.2 of the Government Code is amended*  
38 *to read:*

39 65089.2. (a) Congestion management programs shall be  
40 submitted to the regional agency. The regional agency shall

1 evaluate the consistency between the program and the regional  
2 transportation plans required pursuant to ~~Section 65080~~. *65080,*  
3 *including any adopted sustainable communities strategy. The*  
4 *regional agency shall additionally evaluate how the program*  
5 *contributes to achieving the greenhouse gas reduction target for*  
6 *the region established by the State Air Resources Board pursuant*  
7 *to Section 65080.* In the case of a multicounty regional  
8 transportation planning agency, that agency shall evaluate the  
9 consistency and compatibility of the programs within the region.

10 (b) The regional agency, upon finding that the program is  
11 consistent, shall incorporate the program into the regional  
12 transportation improvement program as provided for in Section  
13 65082. If the regional agency finds the program is inconsistent, it  
14 may exclude any project in the congestion management program  
15 from inclusion in the regional transportation improvement program.

16 (c) (1) The regional agency shall not program any surface  
17 transportation program funds and congestion mitigation and air  
18 quality funds pursuant to Sections 182.6 and 182.7 of the Streets  
19 and Highways Code in a county unless a congestion management  
20 program has been adopted by December 31, 1992, as required  
21 pursuant to Section 65089. No surface transportation program  
22 funds or congestion mitigation and air quality funds shall be  
23 programmed for a project in a local jurisdiction that has been found  
24 to be in nonconformance with a congestion management program  
25 pursuant to Section 65089.5 unless the agency finds that the project  
26 is of regional significance.

27 (2) Notwithstanding any other provision of law, upon the  
28 designation of an urbanized area, pursuant to the 1990 federal  
29 census or a subsequent federal census, within a county which  
30 previously did not include an urbanized area, a congestion  
31 management program as required pursuant to Section 65089 shall  
32 be adopted within a period of 18 months after designation by the  
33 Governor.

34 (d) (1) It is the intent of the Legislature that the regional agency,  
35 when its boundaries include areas in more than one county, should  
36 resolve inconsistencies and mediate disputes that arise between  
37 agencies related to congestion management programs adopted for  
38 those areas.

39 (2) It is the further intent of the Legislature that disputes that  
40 may arise between regional agencies, or agencies that are not within

1 the boundaries of a multicounty regional transportation planning  
2 agency, should be mediated and resolved by the Secretary of  
3 Transportation, or an employee of the Transportation Agency  
4 designated by the secretary, in consultation with the air pollution  
5 control district or air quality management district within whose  
6 boundaries the regional agency or agencies are located.

7 (e) At the request of the agency, a local jurisdiction that owns,  
8 or is responsible for operation of, a trip-generating facility in  
9 another county shall participate in the congestion management  
10 program of the county where the facility is located. If a dispute  
11 arises involving a local jurisdiction, the agency may request the  
12 regional agency to mediate the dispute through procedures pursuant  
13 to subdivision (d). Failure to resolve the dispute does not invalidate  
14 the congestion management program.

15 *SEC. 7. Section 65089.3 of the Government Code is amended*  
16 *to read:*

17 65089.3. The agency shall monitor the implementation of all  
18 elements of the congestion management program. The department  
19 is responsible for data collection and analysis on state highways,  
20 unless the agency designates that responsibility to another entity.  
21 The agency may also assign data collection and analysis  
22 responsibilities to other owners and operators of facilities or  
23 services if the responsibilities are specified in its adopted program.  
24 The agency shall consult with the department and other affected  
25 owners and operators in developing data collection and analysis  
26 procedures and schedules prior to program adoption. At least  
27 biennially, the agency shall determine if the county and cities are  
28 conforming to the congestion management program, including,  
29 but not limited to, all of the following: *program.*

30 ~~(a) Consistency with levels of service standards, except as~~  
31 ~~provided in Section 65089.4.~~

32 ~~(b) Adoption and implementation of a program to analyze the~~  
33 ~~impacts of land use decisions, including the estimate of the costs~~  
34 ~~associated with mitigating these impacts.~~

35 ~~(c) Adoption and implementation of a deficiency plan pursuant~~  
36 ~~to Section 65089.4 when highway and roadway level of service~~  
37 ~~standards are not maintained on portions of the designated system.~~

38 *SEC. 8. Section 65089.4 of the Government Code is repealed.*

39 ~~65089.4. (a) A local jurisdiction shall prepare a deficiency~~  
40 ~~plan when highway or roadway level of service standards are not~~

1 maintained on segments or intersections of the designated system.  
2 The deficiency plan shall be adopted by the city or county at a  
3 noticed public hearing.

4 (b) The agency shall calculate the impacts subject to exclusion  
5 pursuant to subdivision (f) of this section, after consultation with  
6 the regional agency, the department, and the local air quality  
7 management district or air pollution control district. If the  
8 calculated traffic level of service following exclusion of these  
9 impacts is consistent with the level of service standard, the agency  
10 shall make a finding at a publicly noticed meeting that no  
11 deficiency plan is required and so notify the affected local  
12 jurisdiction.

13 (c) The agency shall be responsible for preparing and adopting  
14 procedures for local deficiency plan development and  
15 implementation responsibilities, consistent with the requirements  
16 of this section. The deficiency plan shall include all of the  
17 following:

18 (1) An analysis of the cause of the deficiency. This analysis  
19 shall include the following:

20 (A) Identification of the cause of the deficiency.

21 (B) Identification of the impacts of those local jurisdictions  
22 within the jurisdiction of the agency that contribute to the  
23 deficiency. These impacts shall be identified only if the calculated  
24 traffic level of service following exclusion of impacts pursuant to  
25 subdivision (f) indicates that the level of service standard has not  
26 been maintained, and shall be limited to impacts not subject to  
27 exclusion.

28 (2) A list of improvements necessary for the deficient segment  
29 or intersection to maintain the minimum level of service otherwise  
30 required and the estimated costs of the improvements.

31 (3) A list of improvements, programs, or actions, and estimates  
32 of costs, that will (A) measurably improve multimodal  
33 performance, using measures defined in paragraphs (1) and (2) of  
34 subdivision (b) of Section 65089, and (B) contribute to significant  
35 improvements in air quality, such as improved public transit service  
36 and facilities, improved nonmotorized transportation facilities,  
37 high occupancy vehicle facilities, parking cash-out programs, and  
38 transportation control measures. The air quality management  
39 district or the air pollution control district shall establish and  
40 periodically revise a list of approved improvements, programs,

1 and actions that meet the scope of this paragraph. If an  
2 improvement, program, or action on the approved list has not been  
3 fully implemented, it shall be deemed to contribute to significant  
4 improvements in air quality. If an improvement, program, or action  
5 is not on the approved list, it shall not be implemented unless  
6 approved by the local air quality management district or air  
7 pollution control district.

8 (4) An action plan, consistent with the provisions of Chapter 5  
9 (commencing with Section 66000), that shall be implemented,  
10 consisting of improvements identified in paragraph (2), or  
11 improvements, programs, or actions identified in paragraph (3),  
12 that are found by the agency to be in the interest of the public  
13 health, safety, and welfare. The action plan shall include a specific  
14 implementation schedule. The action plan shall include  
15 implementation strategies for those jurisdictions that have  
16 contributed to the cause of the deficiency in accordance with the  
17 agency's deficiency plan procedures. The action plan need not  
18 mitigate the impacts of any exclusions identified in subdivision  
19 (f). Action plan strategies shall identify the most effective  
20 implementation strategies for improving current and future system  
21 performance.

22 (d) A local jurisdiction shall forward its adopted deficiency plan  
23 to the agency within 12 months of the identification of a deficiency.  
24 The agency shall hold a noticed public hearing within 60 days of  
25 receiving the deficiency plan. Following that hearing, the agency  
26 shall either accept or reject the deficiency plan in its entirety, but  
27 the agency may not modify the deficiency plan. If the agency  
28 rejects the plan, it shall notify the local jurisdiction of the reasons  
29 for that rejection, and the local jurisdiction shall submit a revised  
30 plan within 90 days addressing the agency's concerns. Failure of  
31 a local jurisdiction to comply with the schedule and requirements  
32 of this section shall be considered to be nonconformance for the  
33 purposes of Section 65089.5.

34 (e) The agency shall incorporate into its deficiency plan  
35 procedures, a methodology for determining if deficiency impacts  
36 are caused by more than one local jurisdiction within the  
37 boundaries of the agency.

38 (1) If, according to the agency's methodology, it is determined  
39 that more than one local jurisdiction is responsible for causing a  
40 deficient segment or intersection, all responsible local jurisdictions

1 shall participate in the development of a deficiency plan to be  
2 adopted by all participating local jurisdictions.

3 (2) The local jurisdiction in which the deficiency occurs shall  
4 have lead responsibility for developing the deficiency plan and for  
5 coordinating with other impacting local jurisdictions. If a local  
6 jurisdiction responsible for participating in a multi-jurisdictional  
7 deficiency plan does not adopt the deficiency plan in accordance  
8 with the schedule and requirements of paragraph (a) of this section,  
9 that jurisdiction shall be considered in nonconformance with the  
10 program for purposes of Section 65089.5.

11 (3) The agency shall establish a conflict resolution process for  
12 addressing conflicts or disputes between local jurisdictions in  
13 meeting the multi-jurisdictional deficiency plan responsibilities  
14 of this section.

15 (f) The analysis of the cause of the deficiency prepared pursuant  
16 to paragraph (1) of subdivision (c) shall exclude the following:

17 (1) Interregional travel.

18 (2) Construction, rehabilitation, or maintenance of facilities that  
19 impact the system.

20 (3) Freeway ramp metering.

21 (4) Traffic signal coordination by the state or multi-jurisdictional  
22 agencies.

23 (5) Traffic generated by the provision of low-income and very  
24 low income housing.

25 (6) (A) Traffic generated by high-density residential  
26 development located within one-fourth mile of a fixed rail  
27 passenger station, and

28 (B) Traffic generated by any mixed use development located  
29 within one-fourth mile of a fixed rail passenger station, if more  
30 than half of the land area, or floor area, of the mixed use  
31 development is used for high density residential housing, as  
32 determined by the agency.

33 (g) For the purposes of this section, the following terms have  
34 the following meanings:

35 (1) "High density" means residential density development which  
36 contains a minimum of 24 dwelling units per acre and a minimum  
37 density per acre which is equal to or greater than 120 percent of  
38 the maximum residential density allowed under the local general  
39 plan and zoning ordinance. A project providing a minimum of 75

1 dwelling units per acre shall automatically be considered high  
2 density.

3 (2) ~~“Mixed use development” means development which~~  
4 ~~integrates compatible commercial or retail uses, or both, with~~  
5 ~~residential uses, and which, due to the proximity of job locations,~~  
6 ~~shopping opportunities, and residences, will discourage new trip~~  
7 ~~generation.~~

8 *SEC. 9. Section 65089.5 of the Government Code is amended*  
9 *to read:*

10 65089.5. (a) If, pursuant to the monitoring provided for in  
11 Section 65089.3, the agency determines, following a noticed public  
12 hearing, that a city or county is not conforming with the  
13 requirements of the congestion management program, the agency  
14 shall notify the city or county in writing of the specific areas of  
15 nonconformance. If, within 90 days of the receipt of the written  
16 notice of nonconformance, the city or county has not come into  
17 conformance with the congestion management program, the  
18 governing body of the agency shall make a finding of  
19 nonconformance and shall submit the finding to the commission  
20 and to the Controller.

21 (b) (1) Upon receiving notice from the agency of  
22 nonconformance, the Controller shall withhold apportionments of  
23 funds required to be apportioned to that nonconforming city or  
24 county by Section 2105 of the Streets and Highways Code.

25 (2) If, within the 12-month period following the receipt of a  
26 notice of nonconformance, the Controller is notified by the agency  
27 that the city or county is in conformance, the Controller shall  
28 allocate the apportionments withheld pursuant to this section to  
29 the city or county.

30 (3) If the Controller is not notified by the agency that the city  
31 or county is in conformance pursuant to paragraph (2), the  
32 Controller shall allocate the apportionments withheld pursuant to  
33 this section to the agency.

34 (c) The agency shall use funds apportioned under this section  
35 for projects of regional significance which are included in the  
36 capital improvement program required by paragraph ~~(5)~~ (4) of  
37 subdivision (b) of Section ~~65089~~, or in a deficiency plan which  
38 ~~has been adopted by the agency.~~ 65089. The agency shall not use  
39 these funds for administration or planning purposes.



1     *SEC. 10. Section 65089.7 of the Government Code is amended*  
2     *to read:*

3     65089.7. A proposed development specified in a development  
4     agreement entered into prior to July 10, 1989, shall not be subject  
5     to any action taken to comply with this chapter, except actions  
6     required to be taken with respect to the trip reduction and travel  
7     demand element of a congestion management program pursuant  
8     to paragraph-(3) (2) of subdivision (b) of Section 65089.

9     *SEC. 11. Section 65089.9 of the Government Code is repealed.*

10    ~~65089.9. The study steering committee established pursuant~~  
11    ~~to Section 6 of Chapter 444 of the Statutes of 1992 may designate~~  
12    ~~at least two congestion management agencies to participate in a~~  
13    ~~demonstration study comparing multimodal performance standards~~  
14    ~~to highway level of service standards. The department shall make~~  
15    ~~available, from existing resources, fifty thousand dollars (\$50,000)~~  
16    ~~from the Transportation Planning and Development Account in~~  
17    ~~the State Transportation Fund to fund each of the demonstration~~  
18    ~~projects. The designated agencies shall submit a report to the~~  
19    ~~Legislature not later than June 30, 1997, regarding the findings of~~  
20    ~~each demonstration project.~~

21    *SEC. 12. Section 65089.10 of the Government Code is amended*  
22    *to read:*

23    65089.10. Any congestion management agency that is located  
24    in the Bay Area Air Quality Management District and receives  
25    funds pursuant to Section 44241 of the Health and Safety Code  
26    for the purpose of implementing paragraph-(3) (2) of subdivision  
27    (b) of Section 65089 shall ensure that those funds are expended  
28    as part of an overall program for improving air quality and for the  
29    purposes of this chapter.

30    *SEC. 13. If the Commission on State Mandates determines that*  
31    *this act contains costs mandated by the state, reimbursement to*  
32    *local agencies and school districts for those costs shall be made*  
33    *pursuant to Part 7 (commencing with Section 17500) of Division*  
34    *4 of Title 2 of the Government Code.*