

Assembly Bill No. 2754

Passed the Assembly August 25, 2010

Chief Clerk of the Assembly

Passed the Senate August 23, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 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 21082.1, 75121, and 75124 of the Public Resources Code, relating to land use and planning.

LEGISLATIVE COUNSEL’S DIGEST

AB 2754, 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, 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 whom 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, 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.

(6) The California Environmental Quality Act requires certain agencies to submit to the State Clearinghouse specified documents relating to environmental impact reports in an electronic format and imposes specific duties on the Office of Planning and Research and the Secretary of the Natural Resources Agency in creating guidelines for the submission of those documents.

This bill would require the Office of Planning and Research, no later than August 31, 2011, to prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the guidelines implementing this submission requirement.

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

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

65028.3. "Unit" as used in this chapter, means the Planning and State Clearinghouse Unit established pursuant to Section 65039.5.

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

65038. For the purpose of administering this chapter, the Governor shall appoint the Director of State Planning and Research,

who shall be responsible for the performance of all duties, the exercise of all powers, the assumption and discharge of all responsibilities, and for carrying out and effecting all purposes vested by law in the office, including contracting for professional or consultant services in connection with the work of the office.

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

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

(b) The Director of State Planning and Research may employ and fix the compensation, in accordance with Article VII of the California Constitution, of the Director of the Planning and State Clearinghouse Unit and those officers and employees whom the Director of State Planning and Research deems necessary for the effective conduct of the work of the Planning and State Clearinghouse Unit. No officer or employee, including, but not limited to, the Director of the Planning and State Clearinghouse Unit, shall attain civil service status pursuant to this subdivision prior to July 1, 2011. However, the Department of Personnel Administration shall begin preparation to convey civil service status pursuant to this subdivision on the operative date of the act that added this section.

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

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

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

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

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

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

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

(4) (A) Biannually evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to ensure that all state policies and programs conform to the adopted land use planning goals and programs.

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

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

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

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

(8) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

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

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

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

(12) Assist local government in land use planning.

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

(14) Work with the Strategic Growth 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 (Division 25.5 (commencing with Section 38500) of the

Health and Safety Code), including the provision of technical assistance to local governments eligible for grants and loans to support the planning and development of sustainable communities, pursuant to Section 75127, 75128, or 75129 of the Public Resources Code.

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

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

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

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

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

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

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

- (1) Military installations.

- (2) Military operating areas.
- (3) Military training areas.
- (4) Military training routes.
- (5) Military airspace.
- (6) Other territory adjacent to those installations and areas.

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

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

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

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

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

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

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

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

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

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

65040.6. (a) The Planning Advisory and Assistance Council is hereby created within the office, the membership of which shall be as follows: three city representatives; three county representatives; one representative of each district, provided that at least two of the district representatives are representatives of metropolitan areawide planning organizations and that at least one of the district representatives is a representative of a nonmetropolitan planning organization; and one representative of Indian tribes and bands which have reservations or rancherias within California. The city and county representatives appointed pursuant to this subdivision shall be selected by the director from nominees submitted by the League of California Cities and by the California State Association of Counties. Representatives of areawide planning organizations appointed pursuant to this subdivision shall be selected by the director from nominees submitted by the several areawide planning organizations within the state. Other district representatives shall be appointed by the director. The representative of Indian tribes and bands shall be a member of one tribe or band, and shall be selected by the director.

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

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

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

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

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

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

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

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

Article 8. Liaison to the United States Department of Defense

65055. The Office of Planning and Research shall 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. In this role, the office shall do all of the following:

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

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

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

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

(e) Work closely with representatives of the Armed Forces of the United States regarding issues of importance to the men and women in the military and their families living within the state.

(f) Serve as the administration's lead advocate on state and federal policies that impact members of the Armed Forces of the United States based within the state.

SEC. 8. Section 21082.1 of the Public Resources Code is amended to read:

21082.1. (a) Any draft environmental impact report, environmental impact report, negative declaration, or mitigated negative declaration prepared pursuant to the requirements of this division shall be prepared directly by, or under contract to, a public agency.

(b) This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information or other comments to the public agency responsible for preparing

an environmental impact report, draft environmental impact report, negative declaration, or mitigated negative declaration. The information or other comments may be submitted in any format, shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration.

(c) The lead agency shall do all of the following:

(1) Independently review and analyze any report or declaration required by this division.

(2) Circulate draft documents that reflect its independent judgment.

(3) As part of the adoption of a negative declaration or a mitigated negative declaration, or certification of an environmental impact report, find that the report or declaration reflects the independent judgment of the lead agency.

(4) Submit a sufficient number of copies of the draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration, and a copy of the report or declaration in an electronic form as required by the guidelines adopted pursuant to Section 21083, to the State Clearinghouse for review and comment by state agencies, if any of the following apply:

(A) A state agency is any of the following:

(i) The lead agency.

(ii) A responsible agency.

(iii) A trustee agency.

(B) A state agency otherwise has jurisdiction by law with respect to the project.

(C) The proposed project is of sufficient statewide, regional, or areawide environmental significance as determined pursuant to the guidelines certified and adopted pursuant to Section 21083.

(d) No later than August 31, 2011, the Office of Planning and Research shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the guidelines implementing this division regarding standards as to the electronic form of documents submitted to the office pursuant to this section and consistency in the submission of these documents for the purposes of establishing a publicly accessible database.

SEC. 9. Section 75121 of the Public Resources Code is amended to read:

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

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

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

SEC. 10. Section 75124 of the Public Resources Code is amended to read:

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

Approved _____, 2010

Governor