

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 575

Introduced by Senator Steinberg

February 27, 2009

An act to amend ~~Section 65588~~ Sections 65080, 65583, and 65588 of the Government Code, and to amend Section 75123 of the Public Resources Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 575, as amended, Steinberg. Local planning: ~~housing element.~~ transportation.

~~Existing law~~

(1) *The Planning and Zoning Law requires certain transportation planning activities by designated regional transportation planning agencies, including development of a regional transportation plan. Certain of these agencies are designated under federal law as metropolitan planning organizations. Existing law requires metropolitan planning organizations to adopt a sustainable communities strategy, as specified, as part of their regional transportation plan.*

This bill would specify that nothing in the above provisions requires projects that are funded solely by a local sales tax measure to be subject to the above provisions if those projects were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects.

(2) *The Planning and Zoning Law requires every city, county, and city and county to revise the housing element of its general plan as frequently as is appropriate to reflect the results of the periodic review. Existing law further requires, and that all local governments within the regional jurisdiction of the San Diego Association of Governments*

adopt their 5th revision no more than 5 years from the 4th revision *and their 6th revision no later than 18 months after adoption of the first regional transportation plan to be adopted after the 5th revision due date.*

This bill instead would require ~~that~~ all local governments within the regional jurisdiction of the San Diego Association of Governments to adopt their 5th revision no later than ~~an unspecified period of time~~ 18 months after the adoption of the next regional transportation plan to be adopted after September 30, 2010. The bill would provide that the planning period for the 5th revision would be from July 31, 2010, until 18 months after adoption of the regional transportation plan in 2019. The bill would authorize the Department of Housing and Community Development to adjust the deadlines for housing element adoption for the 5th and subsequent revisions of the housing element so that the deadlines occur 18 months after adoption of the applicable regional transportation plan, provided that the planning period for the housing element is not less than 90 months and not more than 102 months. By adding to the duties of specified local governments, this bill would impose a state-mandated local program.

(3) The Bagley-Keene Open Meeting Act requires, with specified exceptions, that the meetings of a state body be open and public and that all persons be permitted to attend.

Existing law establishes the Strategic Growth Council and requires the council to manage and award grants and loans to support the planning and development of sustainable communities. Existing law also requires the council's meetings to be open to the public and subject to the Bagley-Keene Open Meeting Act.

This bill would provide that a meeting of the council, including a meeting related to the development of grant guidelines and policies and the approval of grants, is subject to the Bagley-Keene Open Meeting Act, and that, for the purposes of this provision, "meeting" would not include a meeting at which council members are meeting as members of the Governor's cabinet.

(4) The bill also would require that existing law, Chapter 728 of the Statutes of 2008, be known, and would authorize it to be cited, as the Sustainable Communities and Climate Protection Act of 2008.

(5) 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 65080 of the Government Code is
2 amended to read:
3 65080. (a) Each transportation planning agency designated
4 under Section 29532 or 29532.1 shall prepare and adopt a regional
5 transportation plan directed at achieving a coordinated and balanced
6 regional transportation system, including, but not limited to, mass
7 transportation, highway, railroad, maritime, bicycle, pedestrian,
8 goods movement, and aviation facilities and services. The plan
9 shall be action-oriented and pragmatic, considering both the
10 short-term and long-term future, and shall present clear, concise
11 policy guidance to local and state officials. The regional
12 transportation plan shall consider factors specified in Section 134
13 of Title 23 of the United States Code. Each transportation planning
14 agency shall consider and incorporate, as appropriate, the
15 transportation plans of cities, counties, districts, private
16 organizations, and state and federal agencies.
17 (b) The regional transportation plan shall be an internally
18 consistent document and shall include all of the following:
19 (1) A policy element that describes the transportation issues in
20 the region, identifies and quantifies regional needs, and describes
21 the desired short-range and long-range transportation goals, and
22 pragmatic objective and policy statements. The objective and policy
23 statements shall be consistent with the funding estimates of the
24 financial element. The policy element of transportation planning
25 agencies with populations that exceed 200,000 persons may
26 quantify a set of indicators including, but not limited to, all of the
27 following:
28 (A) Measures of mobility and traffic congestion, including, but
29 not limited to, daily vehicle hours of delay per capita and vehicle
30 miles traveled per capita.

1 (B) Measures of road and bridge maintenance and rehabilitation
2 needs, including, but not limited to, roadway pavement and bridge
3 conditions.

4 (C) Measures of means of travel, including, but not limited to,
5 percentage share of all trips (work and nonwork) made by all of
6 the following:

7 (i) Single occupant vehicle.

8 (ii) Multiple occupant vehicle or carpool.

9 (iii) Public transit including commuter rail and intercity rail.

10 (iv) Walking.

11 (v) Bicycling.

12 (D) Measures of safety and security, including, but not limited
13 to, total injuries and fatalities assigned to each of the modes set
14 forth in subparagraph (C).

15 (E) Measures of equity and accessibility, including, but not
16 limited to, percentage of the population served by frequent and
17 reliable public transit, with a breakdown by income bracket, and
18 percentage of all jobs accessible by frequent and reliable public
19 transit service, with a breakdown by income bracket.

20 (F) The requirements of this section may be met utilizing
21 existing sources of information. No additional traffic counts,
22 household surveys, or other sources of data shall be required.

23 (2) A sustainable communities strategy prepared by each
24 metropolitan planning organization as follows:

25 (A) No later than September 30, 2010, the State Air Resources
26 Board shall provide each affected region with greenhouse gas
27 emission reduction targets for the automobile and light truck sector
28 for 2020 and 2035, respectively.

29 (i) No later than January 31, 2009, the state board shall appoint
30 a Regional Targets Advisory Committee to recommend factors to
31 be considered and methodologies to be used for setting greenhouse
32 gas emission reduction targets for the affected regions. The
33 committee shall be composed of representatives of the metropolitan
34 planning organizations, affected air districts, the League of
35 California Cities, the California State Association of Counties,
36 local transportation agencies, and members of the public, including
37 homebuilders, environmental organizations, planning organizations,
38 environmental justice organizations, affordable housing
39 organizations, and others. The advisory committee shall transmit
40 a report with its recommendations to the state board no later than

1 September 30, 2009. In recommending factors to be considered
2 and methodologies to be used, the advisory committee may
3 consider any relevant issues, including, but not limited to, data
4 needs, modeling techniques, growth forecasts, the impacts of
5 regional jobs-housing balance on interregional travel and
6 greenhouse gas emissions, economic and demographic trends, the
7 magnitude of greenhouse gas reduction benefits from a variety of
8 land use and transportation strategies, and appropriate methods to
9 describe regional targets and to monitor performance in attaining
10 those targets. The state board shall consider the report prior to
11 setting the targets.

12 (ii) Prior to setting the targets for a region, the state board shall
13 exchange technical information with the metropolitan planning
14 organization and the affected air district. The metropolitan planning
15 organization may recommend a target for the region. The
16 metropolitan planning organization shall hold at least one public
17 workshop within the region after receipt of the report from the
18 advisory committee. The state board shall release draft targets for
19 each region no later than June 30, 2010.

20 (iii) In establishing these targets, the state board shall take into
21 account greenhouse gas emission reductions that will be achieved
22 by improved vehicle emission standards, changes in fuel
23 composition, and other measures it has approved that will reduce
24 greenhouse gas emissions in the affected regions, and prospective
25 measures the state board plans to adopt to reduce greenhouse gas
26 emissions from other greenhouse gas emission sources as that term
27 is defined in subdivision (i) of Section 38505 of the Health and
28 Safety Code and consistent with the regulations promulgated
29 pursuant to the California Global Warming Solutions Act of 2006
30 (Division 12.5 (commencing with Section 38500) of the Health
31 and Safety Code).

32 (iv) The state board shall update the regional greenhouse gas
33 emission reduction targets every eight years consistent with each
34 metropolitan planning organization's timeframe for updating its
35 regional transportation plan under federal law until 2050. The state
36 board may revise the targets every four years based on changes in
37 the factors considered under clause (iii) above. The state board
38 shall exchange technical information with the Department of
39 Transportation, metropolitan planning organizations, local
40 governments, and affected air districts and engage in a consultative

1 process with public and private stakeholders prior to updating these
2 targets.

3 (v) The greenhouse gas emission reduction targets may be
4 expressed in gross tons, tons per capita, tons per household, or in
5 any other metric deemed appropriate by the state board.

6 (B) Each metropolitan planning organization shall prepare a
7 sustainable communities strategy, subject to the requirements of
8 Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of
9 Federal Regulations, including the requirement to utilize the most
10 recent planning assumptions considering local general plans and
11 other factors. The sustainable communities strategy shall (i)
12 identify the general location of uses, residential densities, and
13 building intensities within the region; (ii) identify areas within the
14 region sufficient to house all the population of the region, including
15 all economic segments of the population, over the course of the
16 planning period of the regional transportation plan taking into
17 account net migration into the region, population growth, household
18 formation and employment growth; (iii) identify areas within the
19 region sufficient to house an eight-year projection of the regional
20 housing need for the region pursuant to Section 65584; (iv) identify
21 a transportation network to service the transportation needs of the
22 region; (v) gather and consider the best practically available
23 scientific information regarding resource areas and farmland in
24 the region as defined in subdivisions (a) and (b) of Section
25 65080.01; (vi) consider the state housing goals specified in Sections
26 65580 and 65581; (vii) set forth a forecasted development pattern
27 for the region, which, when integrated with the transportation
28 network, and other transportation measures and policies, will
29 reduce the greenhouse gas emissions from automobiles and light
30 trucks to achieve, if there is a feasible way to do so, the greenhouse
31 gas emission reduction targets approved by the state board; and
32 (viii) allow the regional transportation plan to comply with Section
33 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within
34 the jurisdiction of the Metropolitan Transportation Commission,
35 as defined by Section 66502, the Association of Bay Area
36 Governments shall be responsible for clauses (i), (ii), (iii), (v), and
37 (vi), the Metropolitan Transportation Commission shall be
38 responsible for clauses (iv) and (viii); and the Association of Bay
39 Area Governments and the Metropolitan Transportation
40 Commission shall jointly be responsible for clause (vii).

(C) In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy, if one is prepared pursuant to subparagraph (H), for that subregional area. The metropolitan planning organization may adopt a framework for a subregional sustainable communities strategy or a subregional alternative planning strategy to address the ~~intraregional~~ *interregional* land use, transportation, economic, air quality, and climate policy relationships. The metropolitan planning organization shall include the subregional sustainable communities strategy for that subregion in the regional sustainable communities strategy to the extent consistent with this section and federal law and approve the subregional alternative planning strategy, if one is prepared pursuant to subparagraph (H), for that subregional area to the extent consistent with this section. The metropolitan planning organization shall develop overall guidelines, create public participation plans pursuant to subparagraph (E), ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region.

(D) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the meeting shall be sent to the clerk of the board of supervisors and to each city clerk. The purpose of the meeting shall be to present a draft of the sustainable communities strategy to the members of the board of supervisors and the city council members in that county and to solicit and consider their input and recommendations.

(E) Each metropolitan planning organization shall adopt a public participation plan, for development of the sustainable communities strategy and an alternative planning strategy, if any, that includes all of the following:

(i) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, consistent with the agency's adopted Federal Public Participation Plan, including, but not limited to, affordable housing advocates, transportation advocates, neighborhood and community groups, environmental advocates, home builder representatives, broad-based business organizations, landowners, commercial property interests, and homeowner associations.

(ii) Consultation with congestion management agencies, transportation agencies, and transportation commissions.

(iii) Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the sustainable communities strategy and the alternative planning strategy.

(iv) Preparation and circulation of a draft sustainable communities strategy and an alternative planning strategy, if one is prepared, not less than 55 days before adoption of a final regional transportation plan.

(v) At least three public hearings on the draft sustainable communities strategy in the regional transportation plan and alternative planning strategy, if one is prepared. If the metropolitan transportation organization consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

(vi) A process for enabling members of the public to provide a single request to receive notices, information, and updates.

(F) In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region.

(G) Prior to adopting a sustainable communities strategy, the metropolitan planning organization shall quantify the reduction in greenhouse gas emissions projected to be achieved by the

sustainable communities strategy and set forth the difference, if any, between the amount of that reduction and the target for the region established by the state board.

(H) If the sustainable communities strategy, prepared in compliance with subparagraph (B) or (C), is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the state board, the metropolitan planning organization shall prepare an alternative planning strategy to the sustainable communities strategy showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The alternative planning strategy shall be a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan. In preparing the alternative planning strategy, the metropolitan planning organization:

(i) Shall identify the principal impediments to achieving the targets within the sustainable communities strategy.

(ii) May include an alternative development pattern for the region pursuant to subparagraphs (B) to (F), inclusive.

(iii) Shall describe how the greenhouse gas emission reduction targets would be achieved by the alternative planning strategy, and why the development pattern, measures, and policies in the alternative planning strategy are the most practicable choices for achievement of the greenhouse gas emission reduction targets.

(iv) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the greenhouse gas emission reduction targets approved by the state board.

(v) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

(I) (i) Prior to starting the public participation process adopted pursuant to subparagraph (E) of paragraph (2) of subdivision (b)

1 of Section 65080, the metropolitan planning organization shall
2 submit a description to the state board of the technical methodology
3 it intends to use to estimate the greenhouse gas emissions from its
4 sustainable communities strategy and, if appropriate, its alternative
5 planning strategy. The state board shall respond to the metropolitan
6 planning organization in a timely manner with written comments
7 about the technical methodology, including specifically describing
8 any aspects of that methodology it concludes will not yield accurate
9 estimates of greenhouse gas emissions, and suggested remedies.
10 The metropolitan planning organization is encouraged to work
11 with the state board until the state board concludes that the
12 technical methodology operates accurately.

13 (ii) After adoption, a metropolitan planning organization shall
14 submit a sustainable communities strategy or an alternative
15 planning strategy, if one has been adopted, to the state board for
16 review, including the quantification of the greenhouse gas emission
17 reductions the strategy would achieve and a description of the
18 technical methodology used to obtain that result. Review by the
19 state board shall be limited to acceptance or rejection of the
20 metropolitan planning organization's determination that the strategy
21 submitted would, if implemented, achieve the greenhouse gas
22 emission reduction targets established by the state board. The state
23 board shall complete its review within 60 days.

24 (iii) If the state board determines that the strategy submitted
25 would not, if implemented, achieve the greenhouse gas emission
26 reduction targets, the metropolitan planning organization shall
27 revise its strategy or adopt an alternative planning strategy, if not
28 previously adopted, and submit the strategy for review pursuant
29 to clause (ii). At a minimum, the metropolitan planning
30 organization must obtain state board acceptance that an alternative
31 planning strategy would, if implemented, achieve the greenhouse
32 gas emission reduction targets established for that region by the
33 state board.

34 (J) Neither a sustainable communities strategy nor an alternative
35 planning strategy regulates the use of land, nor, except as provided
36 by subparagraph (I), shall either one be subject to any state
37 approval. Nothing in a sustainable communities strategy shall be
38 interpreted as superseding the exercise of the land use authority
39 of cities and counties within the region. Nothing in this section
40 shall be interpreted to limit the state board's authority under any

other provision of law. Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or an alternative planning strategy. Nothing in this section requires a metropolitan planning organization to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(K) Nothing in this section requires projects programmed for funding on or before December 31, 2011, to be subject to the provisions of this paragraph if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects. *Nothing in this section requires projects that are funded solely by a local sales tax measure to be subject to the provisions of this paragraph if those projects were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects.* Nothing in this section shall require a transportation sales tax authority to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010. For purposes of this subparagraph, a transportation sales tax authority is a district, as defined in Section 7252 of the Revenue and Taxation Code, that is authorized to impose a sales tax for transportation purposes.

(L) A metropolitan planning organization, or a regional transportation planning agency not within a metropolitan planning organization, that is required to adopt a regional transportation plan not less than every five years, may elect to adopt the plan not less than every four years. This election shall be made by the board of directors of the metropolitan planning organization or regional transportation planning agency no later than June 1, 2009, or

1 thereafter 54 months prior to the statutory deadline for the adoption
2 of housing elements for the local jurisdictions within the region,
3 after a public hearing at which comments are accepted from
4 members of the public and representatives of cities and counties
5 within the region covered by the metropolitan planning
6 organization or regional transportation planning agency. Notice
7 of the public hearing shall be given to the general public and by
8 mail to cities and counties within the region no later than 30 days
9 prior to the date of the public hearing. Notice of election shall be
10 promptly given to the Department of Housing and Community
11 Development. The metropolitan planning organization or the
12 regional transportation planning agency shall complete its next
13 regional transportation plan within three years of the notice of
14 election.

15 (M) Two or more of the metropolitan planning organizations
16 for Fresno County, Kern County, Kings County, Madera County,
17 Merced County, San Joaquin County, Stanislaus County, and
18 Tulare County may work together to develop and adopt
19 multiregional goals and policies that may address interregional
20 land use, transportation, economic, air quality, and climate
21 relationships. The participating metropolitan planning organizations
22 may also develop a multiregional sustainable communities strategy,
23 to the extent consistent with federal law, or an alternative planning
24 strategy for adoption by the metropolitan planning organizations.
25 Each participating metropolitan planning organization shall
26 consider any adopted multiregional goals and policies in the
27 development of a sustainable communities strategy and, if
28 applicable, an alternative planning strategy for its region.

29 (3) An action element that describes the programs and actions
30 necessary to implement the plan and assigns implementation
31 responsibilities. The action element may describe all transportation
32 projects proposed for development during the 20-year or greater
33 life of the plan. The action element shall consider congestion
34 management programming activities carried out within the region.

35 (4) (A) A financial element that summarizes the cost of plan
36 implementation constrained by a realistic projection of available
37 revenues. The financial element shall also contain
38 recommendations for allocation of funds. A county transportation
39 commission created pursuant to Section 130000 of the Public
40 Utilities Code shall be responsible for recommending projects to

be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan that includes total expenditures and related percentages of total expenditures for all of the following:

- (i) State highway expansion.
- (ii) State highway rehabilitation, maintenance, and operations.
- (iii) Local road and street expansion.
- (iv) Local road and street rehabilitation, maintenance, and operation.
- (v) Mass transit, commuter rail, and intercity rail expansion.
- (vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.
- (vii) Pedestrian and bicycle facilities.
- (viii) Environmental enhancements and mitigation.
- (ix) Research and planning.
- (x) Other categories.

(C) The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or farmland, as defined in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm to market and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility

1 for specific sectors of the community, including, but not limited
2 to, senior citizens.

3 (d) Except as otherwise provided in this subdivision, each
4 transportation planning agency shall adopt and submit, every four
5 years, an updated regional transportation plan to the California
6 Transportation Commission and the Department of Transportation.
7 A transportation planning agency located in a federally designated
8 air quality attainment area or that does not contain an urbanized
9 area may at its option adopt and submit a regional transportation
10 plan every five years. When applicable, the plan shall be consistent
11 with federal planning and programming requirements and shall
12 conform to the regional transportation plan guidelines adopted by
13 the California Transportation Commission. Prior to adoption of
14 the regional transportation plan, a public hearing shall be held after
15 the giving of notice of the hearing by publication in the affected
16 county or counties pursuant to Section 6061.

17 *SEC. 2. Section 65583 of the Government Code is amended to*
18 *read:*

19 65583. The housing element shall consist of an identification
20 and analysis of existing and projected housing needs and a
21 statement of goals, policies, quantified objectives, financial
22 resources, and scheduled programs for the preservation,
23 improvement, and development of housing. The housing element
24 shall identify adequate sites for housing, including rental housing,
25 factory-built housing, mobilehomes, and emergency shelters, and
26 shall make adequate provision for the existing and projected needs
27 of all economic segments of the community. The element shall
28 contain all of the following:

29 (a) An assessment of housing needs and an inventory of
30 resources and constraints relevant to the meeting of these needs.
31 The assessment and inventory shall include all of the following:

32 (1) An analysis of population and employment trends and
33 documentation of projections and a quantification of the locality's
34 existing and projected housing needs for all income levels,
35 including extremely low income households, as defined in
36 subdivision (b) of Section 50105 and Section 50106 of the Health
37 and Safety Code. These existing and projected needs shall include
38 the locality's share of the regional housing need in accordance
39 with Section 65584. Local agencies shall calculate the subset of
40 very low income households allotted under Section 65584 that

qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

1 (ii) Off-street parking based upon demonstrated need, provided
2 that the standards do not require more parking for emergency
3 shelters than for other residential or commercial uses within the
4 same zone.

5 (iii) The size and location of exterior and interior onsite waiting
6 and client intake areas.

7 (iv) The provision of onsite management.

8 (v) The proximity to other emergency shelters, provided that
9 emergency shelters are not required to be more than 300 feet apart.

10 (vi) The length of stay.

11 (vii) Lighting.

12 (viii) Security during hours that the emergency shelter is in
13 operation.

14 (B) The permit processing, development, and management
15 standards applied under this paragraph shall not be deemed to be
16 discretionary acts within the meaning of the California
17 Environmental Quality Act (Division 13 (commencing with Section
18 21000) of the Public Resources Code).

19 (C) A local government that can demonstrate to the satisfaction
20 of the department the existence of one or more emergency shelters
21 either within its jurisdiction or pursuant to a multijurisdictional
22 agreement that can accommodate that jurisdiction's need for
23 emergency shelter identified in paragraph (7) may comply with
24 the zoning requirements of subparagraph (A) by identifying a zone
25 or zones where new emergency shelters are allowed with a
26 conditional use permit.

27 (D) A local government with an existing ordinance or ordinances
28 that comply with this paragraph shall not be required to take
29 additional action to identify zones for emergency shelters. The
30 housing element must only describe how existing ordinances,
31 policies, and standards are consistent with the requirements of this
32 paragraph.

33 (5) An analysis of potential and actual governmental constraints
34 upon the maintenance, improvement, or development of housing
35 for all income levels, including the types of housing identified in
36 paragraph (1) of subdivision (c), and for persons with disabilities
37 as identified in the analysis pursuant to paragraph (7), including
38 land use controls, building codes and their enforcement, site
39 improvements, fees and other exactions required of developers,
40 and local processing and permit procedures. The analysis shall

1 also demonstrate local efforts to remove governmental constraints
2 that hinder the locality from meeting its share of the regional
3 housing need in accordance with Section 65584 and from meeting
4 the need for housing for persons with disabilities, supportive
5 housing, transitional housing, and emergency shelters identified
6 pursuant to paragraph (7). Transitional housing and supportive
7 housing shall be considered a residential use of property, and shall
8 be subject only to those restrictions that apply to other residential
9 dwellings of the same type in the same zone.

10 (6) An analysis of potential and actual nongovernmental
11 constraints upon the maintenance, improvement, or development
12 of housing for all income levels, including the availability of
13 financing, the price of land, and the cost of construction.

14 (7) An analysis of any special housing needs, such as those of
15 the elderly, persons with disabilities, large families, farmworkers,
16 families with female heads of households, and families and persons
17 in need of emergency shelter. The need for emergency shelter shall
18 be assessed based on annual and seasonal need. The need for
19 emergency shelter may be reduced by the number of supportive
20 housing units that are identified in an adopted 10-year plan to end
21 chronic homelessness and that are either vacant or for which
22 funding has been identified to allow construction during the
23 planning period.

24 (8) An analysis of opportunities for energy conservation with
25 respect to residential development.

26 (9) An analysis of existing assisted housing developments that
27 are eligible to change from low-income housing uses during the
28 next 10 years due to termination of subsidy contracts, mortgage
29 prepayment, or expiration of restrictions on use. "Assisted housing
30 developments," for the purpose of this section, shall mean
31 multifamily rental housing that receives governmental assistance
32 under federal programs listed in subdivision (a) of Section
33 65863.10, state and local multifamily revenue bond programs,
34 local redevelopment programs, the federal Community
35 Development Block Grant Program, or local in-lieu fees. "Assisted
36 housing developments" shall also include multifamily rental units
37 that were developed pursuant to a local inclusionary housing
38 program or used to qualify for a density bonus pursuant to Section
39 65916.

1 (A) The analysis shall include a listing of each development by
2 project name and address, the type of governmental assistance
3 received, the earliest possible date of change from low-income use
4 and the total number of elderly and nonelderly units that could be
5 lost from the locality's low-income housing stock in each year
6 during the 10-year period. For purposes of state and federally
7 funded projects, the analysis required by this subparagraph need
8 only contain information available on a statewide basis.

9 (B) The analysis shall estimate the total cost of producing new
10 rental housing that is comparable in size and rent levels, to replace
11 the units that could change from low-income use, and an estimated
12 cost of preserving the assisted housing developments. This cost
13 analysis for replacement housing may be done aggregately for
14 each five-year period and does not have to contain a
15 project-by-project cost estimate.

16 (C) The analysis shall identify public and private nonprofit
17 corporations known to the local government which have legal and
18 managerial capacity to acquire and manage these housing
19 developments.

20 (D) The analysis shall identify and consider the use of all federal,
21 state, and local financing and subsidy programs which can be used
22 to preserve, for lower income households, the assisted housing
23 developments, identified in this paragraph, including, but not
24 limited to, federal Community Development Block Grant Program
25 funds, tax increment funds received by a redevelopment agency
26 of the community, and administrative fees received by a housing
27 authority operating within the community. In considering the use
28 of these financing and subsidy programs, the analysis shall identify
29 the amounts of funds under each available program which have
30 not been legally obligated for other purposes and which could be
31 available for use in preserving assisted housing developments.

32 (b) (1) A statement of the community's goals, quantified
33 objectives, and policies relative to the maintenance, preservation,
34 improvement, and development of housing.

35 (2) It is recognized that the total housing needs identified
36 pursuant to subdivision (a) may exceed available resources and
37 the community's ability to satisfy this need within the content of
38 the general plan requirements outlined in Article 5 (commencing
39 with Section 65300). Under these circumstances, the quantified
40 objectives need not be identical to the total housing needs. The

quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions

1 with an eight-year housing element planning period pursuant to
2 Section 65588, shall be completed no later than three years after
3 either the date the housing element is adopted pursuant to
4 subdivision (f) of Section 65585 or the date that is 90 days after
5 receipt of comments from the department pursuant to subdivision
6 (b) of Section 65585, whichever is earlier, unless the deadline is
7 extended pursuant to subdivision (f). Notwithstanding the
8 foregoing, for a local government that fails to adopt a housing
9 element within 120 days of the statutory deadline in Section 65588
10 for adoption of the housing element, rezoning of those sites,
11 including adoption of minimum density and development standards,
12 shall be completed no later than three years and 120 days from the
13 statutory deadline in Section 65588 for adoption of the housing
14 element.

15 (B) Where the inventory of sites, pursuant to paragraph (3) of
16 subdivision (a), does not identify adequate sites to accommodate
17 the need for groups of all household income levels pursuant to
18 Section 65584, the program shall identify sites that can be
19 developed for housing within the planning period pursuant to
20 subdivision (h) of Section 65583.2. The identification of sites shall
21 include all components specified in subdivision (b) of Section
22 65583.2.

23 (C) Where the inventory of sites pursuant to paragraph (3) of
24 subdivision (a) does not identify adequate sites to accommodate
25 the need for farmworker housing, the program shall provide for
26 sufficient sites to meet the need with zoning that permits
27 farmworker housing use by right, including density and
28 development standards that could accommodate and facilitate the
29 feasibility of the development of farmworker housing for low- and
30 very low income households.

31 (2) Assist in the development of adequate housing to meet the
32 needs of extremely low, very low, low-, and moderate-income
33 households.

34 (3) Address and, where appropriate and legally possible, remove
35 governmental constraints to the maintenance, improvement, and
36 development of housing, including housing for all income levels
37 and housing for persons with disabilities. The program shall remove
38 constraints to, and provide reasonable accommodations for housing
39 designed for, intended for occupancy by, or with supportive
40 services for, persons with disabilities.

1 (4) Conserve and improve the condition of the existing
2 affordable housing stock, which may include addressing ways to
3 mitigate the loss of dwelling units demolished by public or private
4 action.

5 (5) Promote housing opportunities for all persons regardless of
6 race, religion, sex, marital status, ancestry, national origin, color,
7 familial status, or disability.

8 (6) Preserve for lower income households the assisted housing
9 developments identified pursuant to paragraph (9) of subdivision
10 (a). The program for preservation of the assisted housing
11 developments shall utilize, to the extent necessary, all available
12 federal, state, and local financing and subsidy programs identified
13 in paragraph (9) of subdivision (a), except where a community has
14 other urgent needs for which alternative funding sources are not
15 available. The program may include strategies that involve local
16 regulation and technical assistance.

17 (7) The program shall include an identification of the agencies
18 and officials responsible for the implementation of the various
19 actions and the means by which consistency will be achieved with
20 other general plan elements and community goals. The local
21 government shall make a diligent effort to achieve public
22 participation of all economic segments of the community in the
23 development of the housing element, and the program shall
24 describe this effort.

25 (d) (1) A local government may satisfy all or part of its
26 requirement to identify a zone or zones suitable for the
27 development of emergency shelters pursuant to paragraph (4) of
28 subdivision (a) by adopting and implementing a multijurisdictional
29 agreement, with a maximum of two other adjacent communities,
30 that requires the participating jurisdictions to develop at least one
31 year-round emergency shelter within two years of the beginning
32 of the planning period.

33 (2) The agreement shall allocate a portion of the new shelter
34 capacity to each jurisdiction as credit towards its emergency shelter
35 need, and each jurisdiction shall describe how the capacity was
36 allocated as part of its housing element.

37 (3) Each member jurisdiction of a multijurisdictional agreement
38 shall describe in its housing element all of the following:

39 (A) How the joint facility will meet the jurisdiction's emergency
40 shelter need.

1 (B) The jurisdiction's contribution to the facility for both the
2 development and ongoing operation and management of the
3 facility.

4 (C) The amount and source of the funding that the jurisdiction
5 contributes to the facility.

6 (4) The aggregate capacity claimed by the participating
7 jurisdictions in their housing elements shall not exceed the actual
8 capacity of the shelter.

9 (e) Except as otherwise provided in this article, amendments to
10 this article that alter the required content of a housing element
11 shall apply to both of the following:

12 (1) A housing element or housing element amendment prepared
13 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
14 when a city, county, or city and county submits a draft to the
15 department for review pursuant to Section 65585 more than 90
16 days after the effective date of the amendment to this section.

17 (2) Any housing element or housing element amendment
18 prepared pursuant to subdivision (e) of Section 65588 or Section
19 65584.02, when the city, county, or city and county fails to submit
20 the first draft to the department before the due date specified in
21 Section 65588 or 65584.02.

22 (f) The deadline for completing required rezoning pursuant to
23 subparagraph (A) of paragraph (1) of subdivision (c) shall be
24 extended by one year if the local government has completed the
25 rezoning at densities sufficient to accommodate at least 75 percent
26 of the ~~sites~~ *units* for low- and very low income households and if
27 the legislative body at the conclusion of a public hearing
28 determines, based upon substantial evidence, that any of the
29 following circumstances exist:

30 (1) The local government has been unable to complete the
31 rezoning because of the action or inaction beyond the control of
32 the local government of any other state federal or local agency.

33 (2) The local government is unable to complete the rezoning
34 because of infrastructure deficiencies due to fiscal or regulatory
35 constraints.

36 (3) The local government must undertake a major revision to
37 its general plan in order to accommodate the housing related
38 policies of a sustainable communities strategy or an alternative
39 planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph; and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act. Design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, “housing development project” means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SECTION 1.

SEC. 3. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community’s housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) Except as provided in paragraph (7) of subdivision (e), the housing element shall be revised as appropriate, but not less than every eight years, to reflect the results of this periodic review, by those local governments that are located within a region covered by (1) a metropolitan planning organization in a region classified

as nonattainment for one or more pollutants regulated by the federal Clean Air Act (42 U.S.C. Sec. 7401 *et seq.*) or (2) a metropolitan planning organization or regional transportation planning agency that is required, or has elected pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080, to adopt a regional transportation plan not less than every four years, except that a local government that does not adopt a housing element within 120 days of the statutory deadline for adoption of the housing element shall revise its housing element as appropriate, but not less than every four years. The housing element shall be revised, as appropriate, but not less than every five years by those local governments that are located within a region covered by a metropolitan planning organization or regional transportation planning agency that is required to adopt a regional transportation plan not less than every five years, to reflect the results of this periodic review. Nothing in this section shall be construed to excuse the obligations of the local government to adopt a revised housing element no later than the date specified in this section.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units,

1 either onsite, elsewhere within the locality's jurisdiction within
2 the coastal zone, or within three miles of the coastal zone within
3 the locality's jurisdiction, shall be designated in the review.

4 (e) Notwithstanding subdivision (b) or the date of adoption of
5 the housing elements previously in existence, each city, county,
6 and city and county shall revise its housing element according to
7 the following schedule:

8 (1) Local governments within the regional jurisdiction of the
9 Southern California Association of Governments: June 30, 2006,
10 for the fourth revision.

11 (2) Local governments within the regional jurisdiction of the
12 Association of Bay Area Governments: June 30, 2007, for the
13 fourth revision.

14 (3) Local governments within the regional jurisdiction of the
15 Council of Fresno County Governments, the Kern County Council
16 of Governments, and the Sacramento Area Council of
17 Governments: June 30, 2002, for the third revision, and June 30,
18 2008, for the fourth revision.

19 (4) Local governments within the regional jurisdiction of the
20 Association of Monterey Bay Area Governments: December 31,
21 2002, for the third revision, and June 30, 2009, for the fourth
22 revision.

23 (5) Local governments within the regional jurisdiction of the
24 San Diego Association of Governments: June 30, 2005, for the
25 fourth revision.

26 (6) All other local governments: December 31, 2003, for the
27 third revision, and June 30, 2009, for the fourth revision.

28 (7) (A) All local governments within a metropolitan planning
29 organization in a region classified as nonattainment for one or
30 more pollutants regulated by the federal Clean Air Act (42 U.S.C.
31 Sec. 7506), except those within the regional jurisdiction of the San
32 Diego Association of Governments, shall adopt the fifth revision
33 of the housing element no later than 18 months after adoption of
34 the first regional transportation plan to be adopted after September
35 30, 2010.

36 (B) All local governments within the regional jurisdiction of
37 the San Diego Association of Governments shall adopt their fifth
38 revision no later than _____ and their sixth revision no later than
39 18 months after adoption of the first next regional transportation
40 plan to be adopted after the fifth revision due date: *September 30,*

2010. Notwithstanding subdivision (f), the planning period for the fifth revision shall be from July 31, 2010, until 18 months after adoption of the regional transportation plan in 2019.

(C) All local governments within the regional jurisdiction of a metropolitan planning organization or a regional transportation planning agency that has made an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 shall be subject to the eight-year planning period pursuant to subdivision (b) of Section 65588 and shall adopt its next housing element 18 months after adoption of the first regional transportation plan following the election.

(f) For purposes of this article, “planning period” shall be the time period for periodic revision of the housing element pursuant to this section.

(g) The Department of Housing and Community Development may adjust the deadlines for adoption of the fifth and subsequent revisions of the housing element so that the deadlines occur 18 months after adoption of the applicable regional transportation plan, provided that the planning period for the housing element is not less than 90 months and not more than 102 months.

SEC. 4. Section 75123 of the Public Resources Code is amended to read:

75123. (a) ~~The council’s meetings shall be open to the public and~~ A meeting of the council, including a meeting related to the development of grant guidelines and policies and the approval of grants, shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), except that, for purposes of this section, “meeting” shall not include a meeting at which council members are meeting as members of the Governor’s cabinet.

(b) The council may sponsor conferences, symposia, and other public forums, to seek a broad range of public advice regarding local, regional, and natural resource planning, sustainable development, and strategies to reduce and mitigate climate change.

SEC. 5. Chapter 728 of the Statutes of 2008 shall be known and may be cited as the Sustainable Communities and Climate Protection Act.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to

- 1 *local agencies and school districts for those costs shall be made*
- 2 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 3 *4 of Title 2 of the Government Code.*

O