

BILL

ANALYSIS

SB 375

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Date of Hearing: August 19, 2008

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
 Anna Marie Caballero, Chair
 SB 375 (Steinberg) - As Amended: August 18, 2008

SENATE VOTE : 21-15

SUBJECT : Transportation planning: travel demand models:
 sustainable communities strategy: environmental review.

SUMMARY : Requires metropolitan planning organizations (MPOs)

to include sustainable communities strategies (SCS), as defined, in their regional transportation plans (RTPs) for the purpose of reducing greenhouse gas emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies. Specifically, this bill :

- 1) Makes findings and declarations concerning the need to make significant changes in land use and transportation policy in order to meet the greenhouse gas reduction goals established by AB 32 (Nunez & Pavley), Chapter 444, Statutes of 2006.
- 2) Requires the California Air Resources Board (CARB), no later than January 31, 2009, to appoint a Regional Targets Advisory Committee (committee) to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions, and specifies the composition of the committee, including, but not limited to, local transportation agencies.
- 3) Requires the committee to transmit a report with its recommendations to CARB no later than December 31, 2009, and requires CARB to consider the report prior to setting targets.
- 4) Provides that, in recommending factors to be considered and methodologies to be used, the committee may consider any relevant issues, including, but not limited to, data needs,

modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets.

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- 5) Requires that, prior to setting the targets for a region, CARB exchange technical information with the MPO and the affected air district, which may include a recommendation for a target for the region.
 - 6) Requires the MPO to hold at least one public workshop within the region after receipt of the report from the committee.
 - 7) Requires CARB to update the regional greenhouse gas emission reduction targets every eight years consistent with each MPO's timeframe for updating its RTP under federal law until 2050.
 - 8) Authorizes CARB to revise the targets every four years based on changes in specified factors, and requires CARB to exchange technical information with the MPOs, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.
 - 9) Requires the RTP for specified regions to include an SCS, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region.
 - 10) Specifies how the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) are to collaborate in the preparation of the SCS.

- 11) Specifies how the sub-regional councils of governments within the Southern California Association of Governments (SCAG) will be involved in the preparation of an SCS.
- 12) Requires each MPO to conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the SCS and alternative planning strategy (APS), if any, subject to specified conditions and exceptions.
- 13) Requires each MPO to adopt a public participation plan for development of the SCS and an APS, as specified.
- 14) Requires an MPO to quantify the reduction in greenhouse gas emissions projected to be achieved by the SCS and set forth the difference, if any, between the amount of that reduction

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and the target for the region established by CARB.

- 15) Requires that, if an SCS is unable to reach the CARB target, the MPO prepare an APS to the SCS, as a separate document from the RTP, showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies, as specified.
- 16) Requires that, prior to starting the public participation process, the MPO submit a description to CARB of the technical methodology it intends to use to estimate the greenhouse gas emissions from its SCS and, if appropriate, its APS, and requires CARB to respond to the MPO in a timely manner with written comments about the technical methodology, including specifically describing any aspects of the methodology that will not yield accurate estimates of greenhouse gas emissions, and suggested remedies.
- 17) Requires that, after adoption, an MPO submit an SCS or an

APS, if one has been adopted, to CARB for review, including the quantification of the greenhouse gas emission reductions the plan would achieve and a description of the technical methodology used to obtain that result.

18) Limits CARB review to acceptance or rejection of the MPO's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets, and require CARB to complete its review within 60 days.

19) Requires that, if CARB determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the MPO revise its strategy or adopt an APS, if not previously adopted, and submit the strategy for review.

20) Requires, at a minimum, that the MPO must obtain CARB acceptance that an APS would, if implemented, achieve the greenhouse gas emission reduction targets established for that region.

21) States that:

a) An SCS or APS does not regulate the use of land, nor shall it be subject to any state approval other than the CARB action referred to above;

b) Nothing in an SCS or APS shall be interpreted as superseding or interfering with the exercise of the land use authority of cities and counties within the region;

c) Nothing in this bill shall be interpreted to authorize the abrogation of any vested right whether created by

statute or by common law;

- d) Nothing in this bill shall be interpreted to limit CARB's authority under any other provision of law;
- e) Nothing in this bill requires a city or county's land use policies and regulations, including its general plan, to be consistent with the RTP or an APS;
- f) Nothing in this bill requires an MPO to approve an SCS or APS that would be inconsistent with specified federal regulations;
- g) Nothing in this bill relieves a public or private entity or any person from compliance with any other local, state, or federal law; and,
- h) Nothing in this bill requires a transportation sales tax authority, as defined, 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.

22) Requires certain transportation planning and programming activities to be consistent with the SCS in order to obtain funding, but states that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the SCS.

23) Creates a mechanism by which an MPO, or regional transportation agency not within an MPO, that is currently on a five-year RTP cycle may elect to adopt an RTP on a four-year cycle in order to conform with the other provisions of this bill.

24) Authorizes MPOs in specified Central Valley counties to work

together to develop and adopt multi-regional goals and prepare multi-regional SCS.

- 25) Adds areas designated for agricultural uses and agricultural elements of general plans to the definition of "resource areas."
- 26) Defines "consistent" as having the same meaning as in a specified provision of federal law, and define "internally consistent" as meaning that the elements of the RTP must be consistent with one another.
- 27) Requires that, prior to and after the adoption of specified forms, the housing element portion of the annual progress report of a planning agency on implementation of its general plans must include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element.
- 28) Changes the regional housing needs allocation (RHNA) cycle from five years to eight years.
- 29) Requires that rezoning of sites needed to meet RHNA requirements, including adoption of minimum density and development standards, shall be completed no later than three years after either the date the housing element is adopted or the date that is 90 days after receipt of comments from the Department of Housing and Community Development (HCD), whichever is earlier, unless this deadline is extended, as specified.
- 30) Requires a local government that has failed to adopt a housing element within 120 days of the statutory deadline for doing so to complete the rezoning of sufficient RHNA sites no later than three years and 120 days from the deadline to adopt its housing element.
- 31) Allows the deadline for completing required rezoning to be extended by one year if the local government has completed rezoning at densities sufficient to accommodate at least 75% of the sites for each income group and if the legislative body at the conclusion of a public hearing determines, based upon

substantial evidence, makes specified findings.

- 32) Prohibits a local government that fails to complete the rezoning by the deadline, as it may be extended, from disapproving a housing development project, or requiring a conditional use permit, planned unit development permit, or other locally imposed discretionary permit or condition that would render the project infeasible, if the housing development project is proposed to be located on a site required to be rezoned pursuant to the program required by that subparagraph and complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program required by that subparagraph.
- 33) Provides that any such subdivision of sites shall be subject to the Subdivision Map Act but shall not constitute a "project" for purposes of the California Environmental Quality Act (CEQA).
- 34) Provides that a local government that fails to complete its rezoning may disapprove a housing development described in paragraph only if it makes written findings supported by substantial evidence on the record that 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, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact 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.
- 35) Permits the applicant or any interested person to bring an action to enforce these provisions, and specifies that if a court finds that the local agency disapproved a project or conditioned its approval in violation of these provisions, the court shall issue an order or judgment compelling compliance within 60 days, retain jurisdiction to ensure that its order or judgment is carried out, and, if it 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 paragraph are fulfilled.

36) Provides that, in an action brought against a local

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government for failing to complete rezoning, the burden of proof shall be borne by the local government.

37) Defines "housing development project" as a project to construct residential units if the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49% of the housing units for very low-, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined, for the period required by the applicable financing.

38) Specifies that rental units shall be affordable for at least 55 years, and that ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

39) Requires that a council of governments (COG) provide HCD with data assumptions about the relationship between jobs and housing in the region, if available, to assist HCD in determining the region's RHNA.

40) States legislative intent that:

- a) Housing planning be coordinated and integrated with the RTP;
- b) To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the SCS;

c) The final allocation plan shall ensure that the total regional housing need, by income category, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low-income households; and,

d) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS in the RTP.

41) Directs a court that finds that a city, county, or city and county has failed to complete the required rezoning, as that deadline may be extended, to issue an order or judgment compelling the local government to complete the rezoning

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within 60 days or the earliest time consistent with public hearing notice requirements in place at the time the action was filed and the overall equities of the circumstances as presented by all parties, to retain jurisdiction to ensure that its order or judgment is carried out, and, if the court determines that its order or judgment is not carried out, to issue further orders, including ordering that any required rezoning be completed within 60 days or the earliest time consistent with public hearing notice requirements, and may impose sanctions on the city, county, or city and county, taking into account the overall equities of the circumstances presented by all parties.

42) Permits any interested person to bring an action to compel compliance with the specified deadlines and requirements, and specify that in any such action, the city, county, or city and county shall bear the burden of proof.

43) Requires a local government that does not adopt a housing element within 90 days after receipt of comments from HCD on its draft housing element, or the date the legislative body takes action subsequent to HCD determining that the draft

housing element does not substantially comply, whichever is earlier, to revise its housing element as appropriate, but not less than every four years, rather than eight years.

- 44) Requires all local governments within an MPO in a non-attainment region, other than those within the jurisdiction of the San Diego Association of Governments (SANDAG), to adopt the fifth revision of their housing elements no later than 18 months after the adoption of the first RTP to be adopted after September 30, 2010.
- 45) Requires local governments within SANDAG to adopt their fifth revision no later than five years from the fourth revision, and their sixth revision no later than 18 months after the adoption of the first RTP to be adopted after the fifth revision due date.
- 46) Requires local governments within an MPO that has elected to move from a five-year to a four-year RTP cycle to adopt an eight-year RHNA cycle and to adopt their next housing elements 18 months after the adoption of the first RTP after the election.

- 47) Defines "planning period" as the time period for periodic revision of a jurisdiction's housing element.
- 48) Specifies that, with one exception, the Implementation of the Sustainable Communities Strategy chapter of CEQA applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either an SCS or an APS, for which CARB has accepted an MPO's determination that the SCS or APS would, if implemented, achieve the greenhouse gas emission reduction targets.
- 49) Requires a transit priority project to:

- a) Contain at least 50% residential use, based on total building square footage and, if the project contains between 26% and 50% nonresidential uses, a floor area ratio of not less than 0.75;
- b) Provide a minimum net density of at least 20 dwelling units per acre; and,
- c) Be within one-half mile of an existing or planned major transit stop, as defined, or high-quality transit corridor, as defined, as set forth in the applicable regional transportation plan.

50) Specifies that, for purposes of defining a transit priority project, all parcels within the project have no more than 25% of their area farther than mile from a transit stop or corridor and

that no more than 10% or 100 residential units, whichever is less are less than mile from a transit stop or corridor.

51) Provides that no additional review is required pursuant to CEQA for a transit priority project if the legislative body of a local jurisdiction finds, after conducting a public hearing, that the project meets specified criteria and is declared to be a sustainable communities project.

52) Requires that in the initial study for a sustainable communities environmental assessment or environmental impact report (EIR) for a transit priority project that has met

specified criteria, the lead agency shall determine whether cumulative impacts have been both adequately addressed and adequately mitigated in prior certified EIRs.

- 53) Authorizes the legislative body of a local jurisdiction to adopt traffic mitigation measures for future residential projects that meet specified criteria, and exempts such a residential project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction has adopted those traffic mitigation measures.
- 54) Specifies that, if a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either an SCS or an APS, for which CARB has accepted the MPO's determination that the SCS or the APS would, if implemented, achieve the greenhouse gas emission reduction targets and if the project incorporates the mitigation measures required by an applicable prior environmental document, any findings or other determinations for an exemption, a negative declaration, a mitigated negative declaration, an EIR, or addenda prepared or adopted for the project pursuant to CEQA shall not be required to reference, describe, or discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.
- 55) Specifies that any EIR prepared for a project described above shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.
- 56) Defines "regional transportation network" as all existing and proposed transportation improvements that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final RTP adopted by the MPO, but shall not include local streets and roads.
- 57) Specifies that nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project's impacts on the regional transportation network or local streets and roads.

- 58) Defines a "residential or mixed-use residential project" as a project where at least 75% of the total building square footage of the project consists of residential use or a project that is a transit priority project.
- 59) States that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant applicable sections of the Government Code.

EXISTING LAW :

- 1) Requires certain transportation planning activities by the California Department of Transportation and by designated regional transportation planning agencies, including development of an RTP.
- 2) Authorizes CTC, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation.
- 3) Requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an EIR on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.
- 4) Requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

FISCAL EFFECT : According to the Assembly Appropriations Committee's July 17, 2007, analysis:

- 1) CTC would incur one-time costs of up to \$200,000 in 2007-08 for the adoption of modeling guidelines. Potential minor ongoing costs associated with updated guidelines and reviews of regional models.

- 2) CARB would require one-half of an additional personnel year (PY) in 2007-08 and 2008-09 (annual costs of \$72,500), and a

full additional PY thereafter (annual cost of \$145,000) for the workload associated with this bill.

- 3) The requirement that regional transportation planning agencies develop enhanced travel demand models and preferred growth scenarios may result in a reimbursable state mandate, potentially resulting in state costs exceeding several millions of dollars.

COMMENTS :

- 1) According to the author, this bill provides a mechanism for reducing greenhouse gases from the single largest sector of emissions, cars and light trucks. The environmental organizations sponsoring this legislation maintain that changes in land use and transportation policy must be made to achieve the goals of AB 32. Although greenhouse gas emissions can be reduced by producing more fuel efficient cars and using low carbon fuel, reductions in vehicle miles traveled will also be necessary. Thus, the travel demand models used by MPOs to develop RTPs must assess the effects of land use decisions, transit service, and economic incentives. According to the author, this bill will help implement AB 32 by amending programs that are beyond the current authority of ARB. SB 375 integrates and aligns planning for housing, land use, transportation and greenhouse gas emissions for the 17 MPOs in the state through amendments to provisions in existing law in three major areas.

- 2) Regional Transportation Plans . SB 375 requires CARB, after considering the recommendations from a broadly based advisory committee, to provide targets to the MPOs for greenhouse gas emission reductions for cars and light duty truck trips from

the regional land use and transportation system by July 1, 2010. Each MPO, through significant involvement with the public and its member cities and counties, will then prepare an SCS as a component of its RTP that meets the target, if feasible. It must use transportation and air emission modeling techniques consistent with guidelines prepared by CTC to document the greenhouse gas emissions. If the SCS does not meet the target, the MPO must adopt an APS, as a separate document from the RTP that does. However, the MPO is not required to implement the APS because it may include amounts of transportation funding and changes to land use patterns that go beyond what federal law allows. CARB may accept or

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reject the MPO's determination that the SCS or APS meets the target, but it does not approve the SCS or APS and it may not suggest or require that the MPO make changes to either document. The adopted RTP must be an "internally consistent" document, and current requirements that transportation funds may only be spent on projects consistent with the RTP are unchanged. Projects already programmed in the Statewide Transportation Improvement Program (STIP) through 2011, and projects, programs, and categories of projects in any county sales tax measure approved by the voters prior to December, 2010 are expressly exempted from the provisions of the bill. Several safeguards in the bill are included to preserve local government land use authority.

3)Regional Housing Needs Assessments . Each MPO would be required to update RHNA every eight years instead of every five years as required by current law. This will allow the RHNA process to align with updates to the RTPs, which federal law requires to be done every four years. SB 375 amends the HCD process for setting the regional housing allocations for MPOs to encourage planning for sufficient housing for the projected employment growth in a region. The MPO's allocation of RHNA shares to each of the cities and counties in its jurisdiction will be required to be consistent with the SCS.

Local governments would be required to rezone sites to be consistent with their updated housing elements within three years (four years if the local government has completed 75% of its rezoning by the third year and meets one of three conditions: circumstances out of its control, lack of infrastructure to serve the sites, or need for a major update to its general plan to meet its RHNA allocation). If a local government does not update its housing element within 120 days of the statutory deadline, it will be required to update its RHNA every four years.

4)California Environmental Quality Act . Residential and mixed-use projects that are consistent with an SCS or APS that CARB accepts as meeting its greenhouse gas target will not have to be analyzed under CEQA for growth-inducing impacts or impacts on global warming or on the regional transportation network. A lead agency would not be required to consider a reduced density alternative because of car and light duty truck trips. A limited set of projects that meet a very stringent series of environmental and other criteria would be exempt from any CEQA analysis. Limited CEQA review would be

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available to projects with a density of 20 dwelling units/acre that are within 1/2 mile of current or planned high quality transit service for any impacts that are sufficiently analyzed and mitigated in the RTP's EIR. Finally, qualifying local governments would be able to establish their own mitigation standards for local traffic impacts.

5)Recent amendments . After long and intense negotiations between the author and stakeholders, the current August 13, 2008 version of SB 375 incorporates numerous amendments that address concerns raised by this Committee and various stakeholder groups. The application of the bill has been limited to federally-designated metropolitan planning areas, thus eliminating some small counties. The Regional Targets

Advisory Committee has been created to consider various technical issues and to recommend greenhouse gas emission reduction targets for the regions. A new provision makes consideration of local general plans explicit in the development of a sustainable communities strategy. The planning priority provisions found in earlier iterations of the bill, which have been criticized as creating "concentric circles," have been eliminated. The regions will "gather and consider" information about, rather than identify, important resources and farmlands. The document formerly referred to as the "supplement" is now the APS. This is intended to clarify further that this document is not a part of the sustainable communities strategy nor the RTP. New provisions require an APS to include the most practicable policies for actually achieving the greenhouse gas emission reduction targets. An MPO will be required to submit its SCS/APS to CARB for its certification that the strategy, if implemented, would actually achieve the emission targets. A new rural sustainability element is added to the RTP authorizing regions to consider financial incentives for jurisdictions that have resource areas or farmlands and contribute to GHG reductions by encouraging growth within the urban footprint. The definitions of resource areas and farmlands have been modified. An important change eliminates certain descriptions of habitat areas and substitutes the phrase "biological resources" as defined in Appendix G of the CEQA Guidelines. Changes have been made to the modeling provisions reflecting the adoption of the new guidelines by the CTC.

6) Concerning CEQA, the requirement that a local government would

have to amend its general plan to be consistent with an SCS before being eligible for CEQA-related benefits has been deleted. The CEQA provisions of the bill are now all project-specific. New provisions are added to CEQA that would apply to residential or residential mixed use projects that were consistent with a CARB certified SCS/APS. These

projects would not have to analyze their growth inducing impacts or their impacts on global warming or on the regional transportation network. A lead agency would not be required to address a reduced density alternative because of car and light duty truck trips. These provisions address concerns raised by this Committee last year that the CEQA provisions of SB 375 were insufficiently "user-friendly." The provisions of CEQA in the March 24 version of this bill would now apply only to projects that were consistent with a CARB certified SCS/APS and that were "transit priority projects." The sponsors of this bill refer to the criteria a project would have to meet in order to obtain full exemption as a sustainable communities project as the "platinum standard" that is intentionally hard to achieve. However, with the addition of the new provisions, less onerous alternatives now exist by which projects may obtain significant, if only partial, relief from CEQA obligations.

7) Perhaps the biggest change to SB 375 made by the August 13 amendments is the incorporation of RHNA into the framework of the bill. The amendments align the RHNA and RTP processes by requiring that the housing element be updated every eight years rather than its current five-year cycle. A new statutory deadline for completing rezoning would be added to the RHNA process. If a local government failed to rezone within the new deadline, remedies would be created for affordable housing development projects and for a writ of

mandate to compel rezoning. The proponents believe that, in addition to the land use and greenhouse gas reduction benefits, the net benefits of the bill to the planning and construction of affordable housing are significant.

8) Proposed Amendments . The Committee and author may wish to consider two other amendments to SB 375 to address subjects of continued concern:

- a) Government Code Sec. 65400(a)(2)(B). As proposed to be amended, the bill will require that "[p]rior to and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element." The first sentence of this paragraph states that, "[t]he housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act." These forms have never been adopted in the 13 years since this provision became law. The statute seems to be clear that the existence of the forms is a necessary precondition to the existence of the report, at least as far as the housing element portion is concerned. Consequently, no report can exist prior to the existence of the forms, so the provision in SB 375 positing that there could be a housing element portion of the annual report in which the desired information can be reported prior to the adoption of the forms is absurd. The Committee may wish to request that the author delete the words "prior to and after adoption of the forms" from SB 375.
- b) Government Code Sec. 65583(c)(1)(A). As proposed to be amended, SB 375 requires a local government that has failed to adopt a housing element within 120 days of the statutory deadline for doing so to complete the rezoning of sufficient RHNA sites no later than three years and 120 days from the deadline to adopt its housing element. The question arises as to why a delinquent jurisdiction is being given an additional two months to complete its rezoning. The Committee may wish to ask the author to delete the 120-day addendum and require the jurisdiction to complete its rezoning within three years.

9) Further Questions . The Committee may wish to ask the author and proponents of SB 375 to address the following questions:

- a) While the language of SB 375 has changed to no longer explicitly state that transportation funding will be withheld from MPOs that fail to adopt an SCS/APS, the

effect still seems to be the same. In the past, the author

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and sponsors of SB 375 have referred to this provision of the bill as an "incentive," which appears to do violence to the commonly accepted meaning of that word. Does SB 375 in fact create a penalty for jurisdictions that choose not to follow its provisions? Does this penalty consist of the withholding of funds for which the jurisdiction is currently eligible? If an MPO creates an SCS/APS but fails to meet its target, are there consequences in terms of transportation funding?

- b) This leads to a second area of concern. SB 375 states that an SCS or APS does not regulate the use of land, nor shall it be subject to any state approval other than the CARB action referred to above; that nothing in an SCS or APS shall be interpreted as

superseding or interfering with the exercise of the land use authority of cities and counties within the region; and that nothing in the bill requires a city's or county's land use policies and regulations, including its general plan, to be consistent with the RTP or an APS. However, while fulfilling the provisions of SB 375 is technically voluntary in many cases, it appears that the reality may be different. How can an MPO create a CARB-acceptable SCS/APS without involving local general plans and other land use policies? How is an SCS going to work at the ground level?

Will the targets created by CARB carry the legal force of regulations? Will the prospect of the loss of funds for locally significant transportation projects create a de facto coercive pressure on local governments? While one hopes that the admirable example of the Sacramento Area Council of Governments (SACOG) bringing jurisdictions together to create a regional blueprint on a voluntary basis can be replicated, what happens in areas where inter-governmental relationships are not so relatively

benign?

- c) Another issue that the Committee may also wish the author and proponents of SB 375 to address is the impact and benefit of the bill on rural jurisdictions. While SB 375 has been amended to include agriculture in the definition of resource areas and require MPOs to consider so-called "rural sustainability" incentives, it is unclear whether the bill adequately recognizes that the types of actions that agricultural regions may be asked to take in

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order to meet greenhouse gas emissions targets are very different from those undertaken in more urbanized areas. Will communities with farmers and ranchers who have been engaged in carbon emission-reducing, environmentally beneficial practices for years receive adequate credit for these achievements? Regarding SB 375's CEQA provisions, it appears that it will be nearly impossible for many smaller cities in agricultural counties to meet the definition of "transit priority projects" or otherwise avail themselves of the relief from CEQA obligations offered by this bill.

- d) Finally, some even larger questions have arisen during the evolution of SB 375. Does the bill create significant new levels of government, so that its efforts at streamlining the planning process may have the unintended effect of making it more unwieldy? Is the timeline for achievement of the bill's goals too compressed for many local governments? Should the means of achieving the goals of the bill be more of an iterative, ongoing process with extensive give-and-take between the policy makers in Sacramento and the local jurisdictions doing the work of implementing the policies on the ground on what works and what doesn't?

REGISTERED SUPPORT / OPPOSITION : _

Support

CA League of Conservation Voters [CO-SPONSOR]
Natural Resources Defense Council [CO-SPONSOR]
Alpine Meadows
American Farmland Trust
American Lung Association of CA
American Planning Association, CA Chapter
Association of Bay Area Governments

Support (continued)

Audubon CA
Bay Area Council (in concept)
Bay Area Air Quality Management District
Breathe CA
CA Association of Environmental Professionals (if amended)
CA Association of Local Area Formation Commissions

CA Building Industry Association
CA Council of Land Trusts
CA Interfaith Power and Light
CA League of Conservation Voters
CA Major Builders Council
CA Nurses Association
CA Professional Firefighters
CA State Association of Counties
Cities of Citrus Heights, Folsom, Huntington Beach, Roseville,
and Sacramento
Coalition for Clean Air
Congress for a New Urbanism
County of Los Angeles
County of Napa (with amendments)
Defenders of Wildlife
Endangered Habitats League
Environment CA

Environmental Defense Fund
Environmental Entrepreneurs
Ford Motor Company
Fulcrum Properties
Health Officers Association of CA
Homewood Mountain Resort
JMA Ventures
League of CA Cities
League of Women Voters
Los Angeles Mayor Antonio Villaraigosa
Merced/Mariposa County Asthma Coalition
Metropolitan Transportation Commission of San Francisco Bay Area
Moller International
Natural Resources Defense Council
New Voice of Business
Non Profit Housing Association of Northern California
Pacific Gas and Electric Company
Planning and Conservation League
Sacramento Area Fire Fighters, Local 522
Sacramento Metropolitan Chamber of Commerce
Sacramento Regional Transit District
San Francisco Mayor Gavin Newsom
Santa Cruz County Regional Transportation Commission

Support (continued)

Sempra Energy

Silicon Valley Leadership Group
South Coast Air Quality Management District
State Association of Electrical Workers
State Building and Construction Trades Council
State Pipe Trades Council
Toyota (in concept)
Transportation and Land Use Coalition
Trust for Public Land

Western State Council of Sheet Metal Workers

—
Opposition

Associated General Contractors of CA
Automobile Club of Southern CA
CA Association of Realtors
CA Business Properties Association
CA Chamber of Commerce
CA Contract Cities Association
CA Hotel & Lodging Association
CA Manufacturers & Technology Association
CA Retailers Association
CA Association of Councils of Governments (unless amended)
Consulting Engineers & Land Surveyors of CA
Contra Costa Transportation Authority
County of Orange
Department of Finance
Howard Jarvis Taxpayers Association
Inland Empire Transportation Coalition
Kern County Board of Supervisors
Merced County Association of Governments
Orange County Transportation Authority
Orange County Business Council
Placer County Transportation Planning Agency
Resource Landowners Coalition
San Bernardino Local Agency Formation Commission
San Diego Association of Governments
San Joaquin Valley Regional Policy Council
Self-Help Counties Coalition
Sonoma County Transportation Authority
Southwest CA Legislative Council
Transportation Agency for Monterey County
Transportation CA
Ventura Council of Governments
Western Riverside Council of Governments

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