



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

BRAD WAGENKNECHT – CHAIRPERSON	ERIN GARNER–VICE CHAIRPERSON
DAN DUNNIGAN	SCOTT HAGGERTY
CAROL KLATT	JANET LOCKHART
MARK ROSS	MICHAEL SHIMANSKY
TIM SMITH	

MONDAY
APRIL 21, 2008
9:30 A.M.

FOURTH FLOOR CONFERENCE ROOM
DISTRICT OFFICES

AGENDA

1. CALL TO ORDER - ROLL CALL

2. PUBLIC COMMENT PERIOD

(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to five (5) minutes each.

3. APPROVAL OF MINUTES OF FEBRUARY 25, 2008

4. CONSIDERATION OF NEW BILLS AND CORRESPONDING AGENCY POSITIONS

J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will present the following new air quality bills for the Committee's deliberation.

- a) AB 2094 (DeSaulnier) – Adds BCDC to the Joint Policy Committee;*
- b) AB 2241 (Saldana) – Fee on vehicles that are late complying with Smog Check;*
- c) AB 2922 (DeSaulnier) – Adds non-vehicle violations to ARB's civil penalty authority;*
- d) AB 2991 (Nunez) – Adds climate change experts to ARB Research Screening Committee;*
- e) AB 2522 (Arambula) – Increases vehicle registration fees for air quality in Central Valley;*
- f) SB 375 (Steinberg) – Changes in transportation and land use planning to reduce vehicle miles traveled*

5. UPDATE ON AB 2744 (HUFFMAN)

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee will receive an update on AB 2744, dealing with a regional gas fee to reduce climate change emissions.

6. COMMITTEE MEMBERS' COMMENTS

Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may; ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

7. TIME AND PLACE OF NEXT MEETING: 9:30 a.m., Monday, June 23, 2008, 939 Ellis Street, San Francisco, CA 94109.

8. ADJOURNMENT

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET
SAN FRANCISCO, CA 94109**

**(415) 749-5127
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
(415) 771-6000

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

APRIL 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Public Health Committee <i>(Meets 2nd Wednesday of each even Month)</i>	Wednesday	9	1:30 p.m.	Board Room
Advisory Council Air Quality Planning Committee <i>(Meets 1st Thursday of each even Month)</i>	Thursday	10	9:30 a.m.	Board Room
Board of Directors Executive Committee <i>(At the Call of the Chair)</i>	Thursday	10	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
Joint Policy Committee - CANCELLED	Friday	18	10:00 a.m. – 12:00 p.m.	BCDC 50 California St., 26 Fl. San Francisco, CA
Board of Directors Legislative Committee <i>(Meets 4th Monday of every Month)</i>	Monday	21	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets 4th Wednesday of each month)</i>	Wednesday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee – <i>(Meets 4th Thursday of each Month)</i> - CANCELLED	Thursday	24	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Legislative Committee <i>(Meets 4th Monday of every Month)</i> – RESCHEDULED TO MONDAY, APRIL 21, 2008	Monday	28	9:30 a.m.	4 th Floor Conf. Room

MAY 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday every other Month)</i>	Monday	5	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets At the Call of the Chair)</i>	Monday	12	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting <i>(Meets 2nd Wednesday of every odd Month)</i> – RESCHEDULED TO THURSDAY, MAY 15, 2008	Wednesday	14	10:00 a.m.	Board Room

MAY 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Mobile Source Committee – (Meets 4 th Thursday of each Month)	Wednesday	14	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting (Meets 2 nd Wednesday of every odd Month)	Thursday	15	9:00 a.m.	Board Room
Advisory Council Executive Committee (Meets 2 nd Wednesday of every odd Month)	Thursday	15	Immediately Following the Advisory Council Regular Meeting	Room 716
Board of Directors Climate Protection Committee (Meets 3 rd Thursday every other Month)	Thursday	15	9:30 a.m.	4 th Floor Conf. Room
Joint Policy Committee	Friday	16	10:00 a.m. – 12:00 p.m.	MTC 101 - 8 th Street Oakland, CA 94607
Board of Directors Regular Meeting (Meets 1 st & 3 rd Wednesday of each Month)	Wednesday	21	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee – (Meets 4 th Thursday of each Month) RESCHEDULED TO WEDNESDAY, MAY 14, 2008	Thursday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee (Meets 4 th Wednesday of each month)	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room

JUNE 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Technical Committee (Meets 1 st Monday of every even Month)	Monday	2	9:30 a.m.	Board Room
Board of Directors Regular Meeting (Meets 1 st & 3 rd Wednesday of each Month)	Wednesday	4	9:45 a.m.	Board Room
Advisory Council Public Health Committee (Meets 2 nd Wednesday of every even Month)	Wednesday	4	1:30 p.m.	Room 716
Advisory Council Air Quality Planning Committee (Meets 1 st Thursday of every even Month)	Thursday	5	9:30 a.m.	Room 716
Board of Directors Stationary Source Committee (Meets 3 rd Monday quarterly)	Monday	16	9:30 a.m.	Board Room
Board of Directors Regular Meeting (Meets 1 st & 3 rd Wednesday of each Month)	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Legislative Committee (Meets 4 th Monday of every Month)	Monday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee (Meets 4 th Wednesday of each month)	Wednesday	25	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee – (Meets 4 th Thursday of each Month)	Thursday	26	9:30 a.m.	4 th Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Wagenknecht and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 10, 2008

Re: Legislative Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meeting of February 25, 2008

DISCUSSION

Attached for your review and approval are the draft minutes of the February 25, 2008 Legislative Committee meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

**Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5000**

DRAFT MINUTES

Summary of Board of Directors
Legislative Committee Meeting
9:30 a.m., Monday, February 25, 2008

1. **Call to Order - Roll Call:** Chair Brad Wagenknecht called the meeting to order at 9:32 a.m.

Present: Brad Wagenknecht, Chairperson; Scott Haggerty, Carol Klatt, Mark Ross, Michael Shimansky, Tim Smith.

Absent: Dan Dunnigan, Erin Garner, Janet Lockhart.

Also Present: Pamela Torliatt (9:35 a.m.).

2. **Public Comment Period:** There were none.

3. **Approval of Minutes of November 26, 2007:** Director Shimansky moved approval of the minutes; seconded by Director Klatt carried unanimously without objection.

4. **Consideration of New Bills and Corresponding Agency Positions:** *Staff presented newly-introduced air quality bills for the Committee's deliberation.*

Thomas Addison, Senior Advanced Projects Advisor, presented the report and stated that the legislative deadline to print new bills was Friday, February 22, 2008. Mr. Addison noted that the Air District would only request that the Committee take positions on two bills, although there were other significant bills to be aware of that are now in print.

Mr. Addison introduced the first bill authored by Senator Steinberg. Senate Bill SB 375 deals with land use. Mr. Addison stated that the Metropolitan Transportation Commission (MTC) currently supports this bill.

Mr. Addison provided a summary of SB 375. Mr. Addison stated this bill attempts to deal with land use, greenhouse gas emissions and how regions grow. He also stated that certain residential developments would be exempted from the CEQA process. This is the primary bill that is attempting to address climate change emissions from land use.

Mr. Addison stated that staff's recommendation to the Committee is support in concept.

Mr. Addison also stated that Senator Steinberg would like the Air District's input. Mr. Addison responded to questions and concerns from the Committee.

Committee members expressed concern over the support in concept. Chairperson Wagenknecht stated that the bill is not clear.

Action: Director Shimansky moved to postpone taking a position on SB 375 until the next Legislative Committee meeting; seconded by Director Smith.

Mr. Addison discussed AB 2655 authored by Assembly Member DeSaulnier. AB 2655 is an intent bill that essentially says the Air Resources Board (ARB) should set up an indoor air quality program for homes, public buildings and schools. In addition, ARB should put into place emission standards for materials in those places that contribute to poor indoor quality.

Staff recommended a support in concept position.

Action: Director Shimansky moved a support in concept position on AB 2655; seconded by Director Smith; passed unanimously without objection.

Chairperson Wagenknecht asked that the Committee turn to the Bill Discussion List.

Mr. Addison noted one issue in the Legislature is of net metering. What this means is that residential electric customers who put solar panels on their roofs can sell back excess power. If panels generate more electricity than a resident uses in a year, can the excess be sold back or is it provided free to the utility company? There are a number of net metering bills that will allow individuals to be credited financially for the energy they generate in excess of what is consumed.

Mr. Addison stated that power plant citing is a hot topic, especially in Hayward, as Assembly Member Hayashi has a bill (AB 1909) that increases local say over additional power plants in the communities that already have plants. AB 2522 by Assembly Member Arambula would allow San Joaquin Air District to increase vehicle license fee by up to \$30 annually as the current fee is \$6 statewide. AB 2546 by Assembly Member De La Torre would require ARB to cut emissions from non-locomotive rail yard sources.

The Committee continued discussion on AB 2865 and SB 1548.

Mr. Addison continued with AB 2596 by Assembly Member Jones, allowing local governments that cut greenhouse gases 25% beyond ARB projections to sell credits in any ARB market-based system under AB 32. Mr. Broadbent stated that this will come under ARB's scoping plan. That plan will contain regulations that will define how they will set up a cap and trade system. Mr. Broadbent further stated that an alternative approach is the carbon fee.

Mr. Addison mentioned AB 2865 by Assembly Member De Leon that would increase the amount of ARB Moyer set aside for multi-district projects from 10% to 20%. Lastly, Senator Cox from Sacramento is authoring SB 1662 which allow emission reduction credit trading more

geographically broadly, which would allow increases of emissions in the Bay Area in exchange for protections in the Sac Metro Region. Mr. Addison concluded his presentation.

Director Ross asked about a bill from Senator Florez. Mr. Addison responded that Mr. Florez has a spot bill dealing with air quality boards, SB 1548. Mr. Broadbent asked Mr. Addison if any of the spot bills on the AQMD boards will affect the Air District at all. Mr. Addison indicated that these bills could affect the Air District. Mr. Broadbent asked about SB 1731 by Senator Yee and whether this bill allows South Coast the extra \$1 for technology advancement, and Mr. Addison confirmed that it would. Mr. Broadbent further stated that the Air District consider tacking on to SB 1731 or other legislation language to establish this same type of fund in the Bay Area.

Committee Action: None. This report provided for information only.

5. Update on Air District 2008 Legislative Agenda: *The Committee discussed potential legislative proposals for the District's legislative agenda for 2008.*

Mr. Broadbent introduced the item and stated that the first discussion is relative to the gasoline fee.

The Committee discussed potential legislative proposals for the legislative agenda for 2008. Mr. Addison provided information that Senator Perata would not be able to sponsor the bill at this time. Mr. Huffman has been very enthusiastic about a regional gasoline fee and has authored AB 2744. This bill addresses the existing statutory authority that MTC has which currently requires voter approval of any regional gasoline tax, and proposes to change MTC's gasoline fee. It currently includes cutting greenhouse gas emissions but not maintenance of the local street and road system.

Mr. Broadbent informed the Committee that the infrastructure bond approved by the voters 2006, created a \$1 billion fund for air quality projects. This fund is designed to be able to provide monies for diesel particulate traps and to clean up those emissions that are associated with Goods Movement, for example trucks, trains and ship emissions. CARB was given the authority to allocate the funds. The three factors for allocation are population, diesel particulate emissions and the attainment status. The Air District is anticipating receiving up to \$35 million over a 5 year period.

Committee Action: None, this report was provided for information.

6. Committee Members' Comments: There were none.

7. Time and Place of Next Meeting: *9:30 a.m., Monday, May 26, 2008, 939 Ellis Street, San Francisco, CA.*

8. **Adjournment:** The meeting was adjourned at 10:50 a.m.

Vanessa Johnson
Acting Clerk of the Board

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2008

Re: Consideration of New Bills and Corresponding Agency Positions

RECOMMENDED ACTION:

Review bills and recommend positions for full Board of Directors consideration.

DISCUSSION

Staff are bringing a number of bills to the Committee for consideration. Generally, fewer bills were introduced this year that would address air quality issues. Here are brief analyses and staff's recommended positions on some significant air quality measures. Copies of the bills are attached.

AB 2094 (Mark DeSaulnier, D-Martinez); staff recommendation: Support

This two-part bill would formally add the Bay Conservation and Development Commission (BCDC) to the existing Joint Policy Committee (JPC), and would also authorize BCDC to develop regional strategies to address sea-level rise. Staff recommends a "support" position on the bill based on its plan to include BCDC with the District, MTC, and ABAG on the JPC. In March of 2007, the JPC voted to seek legislation to formally add BCDC to the Committee. At the time of this writing, the author knows of no opposition to the bill, and it is supported by BCDC, MTC, and ABAG.

AB 2241 (Lori Saldana, D-San Diego); staff recommendation: Support if amended

This bill is ostensibly designed to close a loophole that allows motorists to register their cars but delay or even avoid getting them smogged. Last year, the Committee discussed and the District supported another bill authored by Assembly member Saldana on the same topic. That measure, AB 218, took the straightforward approach of requiring a completed, passing smog check by the date the registration fees are due. If the smog check was completed after that date, the existing late fee structure that currently applies to motorists late paying their registration fee would also apply for a late smog check. The Department of Motor Vehicles (DMV) waited until 10 days before the end of the 2007 legislative year to express their opposition to the bill. In the face of that opposition, the author decided to hold AB 218 and work with the DMV in 2008 on a strategy to close the loophole.

AB 2241 is the result of this work, and the measure is sponsored by the DMV. The bill would allow motorists who are late completing their smog check to instead pay a \$35 fee to the DMV, which would allow them to operate their unsmogged or failing vehicle legally for another month or two. Unfortunately, they could repeat this process indefinitely under the bill. Thus staff believes that this year's bill does not close the loophole, and should be strengthened. The author's office has signaled support for the District's involvement, and welcomes a stronger bill.

Thus staff recommends a “support if amended” position. Recommended amendments would both increase fees over time for motorists who are late smogging their vehicles and a cap on the amount of time that the non-compliant vehicle can be driven.

AB 2922 (Mark DeSaulnier, D-Martinez); Staff recommendation: Support

This bill updates the section of state law that provides penalty authority to the Air Resources Board (ARB) to clarify its authority over more than just on-road motor vehicles. It is sponsored by the ARB. In 1976, ARB was given authority to impose penalties for violations of its regulations governing emissions from motor vehicles. However, under the California Clean Air Act of 1988, ARB gained substantial new authority over sources of pollution other than vehicles. For example, ARB regulations now cover such sources as small off-road equipment such as chain saws and leaf blowers, off-road diesel engines used in construction, industry, and agriculture, portable gas cans, and spark-ignition engines used in forklifts, airport ground support equipment, and elsewhere. For all of these categories of equipment, ARB mandates through regulation the amount of emissions that each is allowed. If manufacturers violate those emissions limits, or if vendors sell equipment that does not meet the California standards, air quality suffers.

ARB has imposed penalties for violations of its regulations on these pollution sources, despite the fact that the 1976 statutory language has not been upgraded to reflect ARB’s increased authority. ARB believes that if the language is upgraded, it will avoid any legal challenges to its ability to impose non-vehicle penalties. AB 2922 simply adds to the existing penalty authority violations of ARB regulations to other sorts of equipment. ARB Chair Mary Nichols has requested the District support this measure, and staff recommend a “support” position.

AB 2991 (Speaker Fabian Nunez, D-Los Angeles); Staff recommendation: Support

Like the previous bill, AB 2991 is also sponsored by the ARB, and Mary Nichols has also requested the District support this second bill. The bill would add two new members with climate change expertise to ARB’s Research Screening Committee (RSC). ARB currently funds a wide variety of research into a wide range of topics, from health impacts to technology advancing work to economic impacts of air pollution. State law establishes the RSC to advise ARB on which proposals are worthy of funding, and specifies that this committee shall consist of ‘physicians, scientist, biologists, chemists, engineers, meteorologists’ and others with expertise in traditional air pollution fields. Given the passage of AB 32, and ARB’s increased responsibilities and research around climate protection, it wants to add climate change expertise to the RSC. Staff recommends a “support” position, and knows of no opposition to the measure.

AB 2522 (Juan Arambula, D- Fresno); Staff recommendation: Oppose unless amended

Currently, when a motor vehicle is registered in the Central Valley, a \$7 annual registration fee surcharge for clean air programs is addressed. This generates \$18 million annually for the San Joaquin Valley Air Quality Management District (SJVUAQMD) to use for a wide range of programs. If AB 2522 were to pass, the SJVUAQMD would be authorized to collect up to \$37 per vehicle to expedite their attainment of federal and state clean air standards. This would generate up to \$94 million annually.

While the majority of the bill language focuses on the increased fee on vehicles registered in the SJVUAQMD area, the bill also contains a section on fees on vehicles that are registered elsewhere in the state that travel through the Central Valley. Effectively, this section of the bill requires a study, to be done by the SJVUAQMD, on ‘the manner in which vehicle license fees or other types of fees could be imposed on’ vehicles from other parts of the state that drive in the Central Valley. At some point, almost all vehicles in the state drive in air basins other than where they are registered, including in the Central Valley. Similarly, Central Valley vehicles routinely drive other places as well. Staff recommend a position of “oppose unless amended” on this bill.

While staff sees no problem with SJVUAQMD attempting to raise fees on vehicles registered in its jurisdiction to help address their serious emission problems, efforts by one district to raise funding from vehicles in other basins heightens tensions between regions and should be discouraged. Staff recommends that the bill be amended to eliminate this section. The bill is opposed by the South Coast Air District (for the same reasons) and is also opposed by the California Automobile Association, and roughly 50 business, trade, and anti-tax organizations. It is supported by some environmental organizations, and the SJVUAQMD.

SB 375 (Darrell Steinberg, D-Sacramento); Staff recommendation: Support

This measure attempts to cut greenhouse gas emissions by influencing transportation and land use planning to reduce vehicle miles traveled, and was discussed by the Committee at length at its last meeting. Both the League of Cities (League) and the California State Association of Counties (CSAC) then had “oppose unless amended” positions on the bill. Since that meeting, CSAC has formally adopted a “support if amended” position, and detailed requested amendments both in writing and in a series of subsequent meetings with the author and sponsors of the bill. Both the author’s office and CSAC staff have indicated that they expect to be able to address CSAC’s concerns. A number of organizations have taken positions on the measure since the Committee’s last meeting. Staff will provide the Committee a current list of both supporters and opponents at the meeting on April 21st. Staff recommends a “support” position on the bill.

Lastly, staff have attached a much longer list of bills with air quality impacts, and are prepared to answer questions from the Committee on any of these measures. Some measures are still being amended from very brief, place-holder language into full blown bills at the time of this writing. Thus, staff may present a few additional bills to the Committee on April 21st with recommended positions.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison

AMENDED IN ASSEMBLY APRIL 7, 2008
AMENDED IN ASSEMBLY MARCH 24, 2008
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2094

Introduced by Assembly Members DeSaulnier and Laird

February 19, 2008

An act to amend Section 66536.1 of, and to add Sections 66536.2 and 66646.2 to, the Government Code, relating to regional planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 2094, as amended, DeSaulnier. San Francisco Bay Conservation and Development Commission.

(1) The Metropolitan Transportation Commission Act creates the Metropolitan Transportation Commission as a regional agency in the 9-county Bay Area with comprehensive regional transportation planning and other related responsibilities. Existing law requires a joint policy committee of the commission, the Association of Bay Area Governments, and the Bay Area Air Quality Management District to coordinate the development and drafting of major planning documents prepared by the 3 agencies. Existing law provides for the San Francisco Bay Conservation and Development Commission and specifies its duties and membership.

This bill would require the San Francisco Bay Conservation and Development Commission to be represented on the joint policy committee and would include the San Francisco Bay Conservation and Development Commission in the coordination and drafting of major planning documents prepared by the member agencies. By imposing new duties on local agencies, the bill would impose a state-mandated

local program. The bill would also authorize the San Francisco Bay Conservation and Development Commission, in coordination with local governments, regional councils of government, and other agencies and interested parties, to develop regional strategies, as needed, for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.

~~(2) 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.~~

(2) 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 no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 66536.1 of the Government Code is
2 amended to read:
3 66536.1. (a) The joint policy committee shall prepare a report
4 analyzing the feasibility of consolidating functions separately
5 performed by ABAG and MTC. The report shall be reviewed and
6 approved by MTC and the ABAG executive board and submitted
7 to the Legislature by January 1, 2006.
8 (b) The combined membership of the joint policy committee
9 shall include at least one representative from each of the nine
10 regional counties: Alameda, Contra Costa, Marin, Napa, Sonoma,
11 San Mateo, San Francisco, Santa Clara, and Solano.
12 (c) The joint policy committee shall coordinate the development
13 and drafting of major planning documents prepared by ABAG,
14 MTC, the Bay Area Air Quality Management District, the San
15 Francisco Bay Conservation and Development Commission, and

1 any other member agency, including reviewing and commenting
2 on major interim work products and the final draft comments prior
3 to action by ABAG, MTC, the Bay Area Air Quality Management
4 District, the San Francisco Bay Conservation and Development
5 Commission, and any other member agency. These documents
6 include, but are not limited to, the following:

7 (1) Beginning with the next plan update scheduled to be adopted
8 in 2008, the regional transportation plan prepared by MTC and
9 described in Section 66508 of the Government Code.

10 (2) The ABAG Housing Element planning process for regional
11 housing needs pursuant to Article 10.6 (commencing with Section
12 65580) of Chapter 3 of Division 1 of Title 7.

13 (3) The Bay Area Air Quality Management District's Ozone
14 Attainment Plan and Clean Air Plan.

15 (4) The San Francisco Bay Plan and related documents.

16 SEC. 2. Section 66536.2 is added to the Government Code, to
17 read:

18 66536.2. (a) The Legislature finds and declares:

19 (1) The Association of Bay Area Governments, the Bay Area
20 Air Quality Management District, and the Metropolitan
21 Transportation Commission have been working together through
22 a joint policy committee to coordinate and improve the quality of
23 land use, transportation, and air quality planning in the Bay Area.

24 (2) The San Francisco Bay Conservation and Development
25 Commission has comprehensive planning and regulatory authority
26 in all nine Bay Area counties for the San Francisco Bay, Suisun
27 Marsh, their respective shorelines, certain waterways, salt ponds,
28 and managed wetlands, and through that authority plays a critical
29 role in the land use and transportation future of the Bay Area.

30 (3) The San Francisco Bay Conservation and Development
31 Commission has an active interest in regional planning, as it has
32 expressed a desire to join the joint policy committee, and the joint
33 policy committee has determined it would benefit by adding the
34 San Francisco Bay Conservation and Development Commission
35 as a member.

36 (b) The joint policy committee shall include the San Francisco
37 Bay Conservation and Development Commission as a represented
38 agency with an equal number of committee members as other
39 represented agencies by January 1, 2009.

1 SEC. 3. Section 66646.2 is added to the Government Code, to
2 read:

3 66646.2. The San Francisco Bay Conservation and
4 Development Commission, in coordination with local governments,
5 regional councils of government, and other agencies and interested
6 parties, may develop regional strategies, as needed, for addressing
7 the impacts of, and adapting to, the effects of sea level rise and
8 other impacts of global climate change on the San Francisco Bay
9 and affected shoreline areas. These regional strategies may include,
10 but are not limited to, the following:

11 (a) Identification of areas that may be subject to erosion,
12 inundation, or other impacts from sea level rise and climate change.

13 (b) Economic and environmental analyses of the benefits and
14 costs of protecting the areas likely to be impacted.

15 (c) A plan that describes how to mitigate and adapt to projected
16 sea level rise and other climate-change impacts on the bay and
17 shoreline, including protecting resources from erosion and
18 inundation, and maintaining, restoring, or enhancing the
19 productivity of bay and shoreline environments.

20 ~~SEC. 4. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.~~

25 *SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district are the result of a program for which legislative authority
29 was requested by that local agency or school district, within the
30 meaning of Section 17556 of the Government Code and Section 6
31 of Article XIII B of the California Constitution.*

ASSEMBLY BILL

No. 2241

Introduced by Assembly Member Saldana

February 20, 2008

An act to add Section 9257.5 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2241, as introduced, Saldana. Vehicle operation: temporary permits.

Existing law authorizes the Department of Motor Vehicles in its discretion to issue a temporary permit to operate a vehicle when a payment of fees has been accepted in an amount to be determined by, and paid to, the department, by the owner or other person in lawful possession of the vehicle.

Existing law requires the department to require a person to obtain a valid certification of compliance upon initial registration, transfer of ownership and registration, or biennial renewal of registration of a motor vehicle that is subject to vehicular air pollution control requirements.

This bill would require that a fee of \$35 be paid for each temporary permit issued pursuant to these provisions when a certificate of compliance as referred to in these provisions is required.

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

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

1 SECTION 1. Section 9257.5 is added to the Vehicle Code, to
2 read:

1 9257.5. A fee of thirty-five dollars (\$35) shall be paid for each
2 permit issued pursuant to Section 4156 when a certificate of
3 compliance as described in Section 4000.1, 4000.2, or 4000.3 is
4 required.

O

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2922

Introduced by Assembly Member DeSaulnier

February 22, 2008

An act to amend Section 43016 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2922, as amended, DeSaulnier. Air pollution: penalties.

Existing law declares that emissions of air pollutants from motor vehicles are the primary cause of air pollution in many parts of California, and that the state has the responsibility to establish procedures for compliance with standards that control and eliminate those air pollutants. Existing law requires the State Air Resources Board to prescribe maximum air pollution emission standards to be applied in inspecting motor vehicles. Existing law also requires a person who violates any order, rule, or regulation of the state board adopted pursuant to this authority to pay a civil penalty for deposit into the Air Pollution Control Fund, *not to exceed \$500* per vehicle.

~~This bill would make technical, nonsubstantive changes to those provisions:~~

This bill would set the maximum civil penalty for a violation of these provisions to be an amount not to exceed five hundred dollars (\$500) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under these provisions.

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

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

1 SECTION 1. Section 43016 of the Health and Safety Code is
2 amended to read:
3 43016. ~~A~~Any person who violates any provision of this part,
4 or any order, rule, or regulation of the state board adopted pursuant
5 to this part, and for which violation there is not provided in this
6 part any other specific civil penalty or fine, shall be subject to a
7 civil penalty—of not to exceed five hundred dollars (\$500) per
8 vehicle, *portable fuel container, spout, engine, or other unit subject*
9 *to regulation under this part.* Any penalty collected pursuant to
10 this section shall be payable to the State Treasurer for deposit in
11 the Air Pollution Control Fund.

O

AMENDED IN ASSEMBLY APRIL 9, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2991

**Introduced by Assembly Member Nunez
(Coauthor: Assembly Member DeSaulnier)**

February 22, 2008

An act to amend Section 39705 of the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2991, as amended, Nunez. Air pollution: research.

Existing law requires the State Air Resources Board to coordinate and collect research data on air pollution, and to administer and coordinate all air pollution research funded, in whole or in part, with state funds. Existing law also requires the state board to appoint a screening committee not to exceed 9 persons, to review, and give advice and recommendations, with respect to all air pollution research projects funded by the state. Existing law requires the committee members to be physicians, scientists, biologists, chemists, engineers, meteorologists, or other persons who are knowledgeable, technically qualified, and experienced in the air pollution problems for which projects are being reviewed.

This bill would require the screening committee to review, and provide advice and recommendations, with respect to any climate change related research projects funded by the state *and subject to approval by the state board*. ~~This~~ The bill would also expand the number of members on the screening committee to 11, and would also require that at least 2 of the committee members have demonstrated expertise in the field of climate change.

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

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

1 SECTION 1. Section 39705 of the Health and Safety Code is
 2 amended to read:
 3 39705. (a) The state board shall appoint a screening committee
 4 of not to exceed 11 persons, the membership of which may be
 5 rotated as determined by the state board.
 6 (b) The committee shall consist of physicians, scientists,
 7 biologists, chemists, engineers, meteorologists, and other persons
 8 who are knowledgeable, technically qualified, and experienced in
 9 air pollution problems for which projects are being reviewed. At
 10 least two members of the committee shall have demonstrated
 11 expertise in the field of climate change. The committee shall
 12 review, and give its advice and recommendations with respect to,
 13 all air pollution and climate change related research projects funded
 14 by the state *and subject to approval by the state board*, including
 15 both those conducted by the state board and those conducted under
 16 contract with the state board.
 17 (c) The committee members shall receive one hundred dollars
 18 (\$100) per day for each day they attend a meeting of the state board
 19 or meet to perform their duties under this section. In addition to
 20 the compensation, they shall receive their actual and necessary
 21 travel expenses incurred while performing their duties.

O

ASSEMBLY BILL

No. 2522

Introduced by Assembly Member Arambula
(Principal coauthor: Senator Florez)

February 21, 2008

An act to add Chapter 5.8 (commencing with Section 40610) to Part 3 of Division 26 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2522, as introduced, Arambula. San Joaquin Valley Unified Air Pollution Control District.

(1) Existing law authorizes air pollution control districts and air quality management districts, except as provided, to levy a fee up to \$2 on motor vehicles, and authorizes the districts to increase this fee up to \$6 if certain conditions are met.

This bill would authorize the San Joaquin Valley Unified Air Pollution Control District to increase this fee by up to but not exceeding \$30 for incentive-based programs to achieve surplus emissions reductions, as specified. The bill would require the Bureau of State Audits to audit the assessment of fees and expenditure of funds pursuant to these provisions and require the state board to assess the use of these fees in achieving and maintaining state and federal ambient air standards.

The bill would authorize the San Joaquin Valley district to adopt rules and regulations to reduce vehicle trips in order to reduce air pollution from vehicular sources.

The district would be required to submit a specified proposal relating to vehicle fees. By imposing this duty on the San Joaquin Valley Unified Air Pollution Control District, the bill would impose a state-mandated local program.

(2) The bill would become operative only if SB 240 of the 2007–08 Regular Session is enacted and becomes effective.

(3) 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 no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Chapter 5.8 (commencing with Section 40610)
2 is added to Part 3 of Division 26 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 5.8. SAN JOAQUIN VALLEY CLEAN AIR ATTAINMENT
6 PROGRAM
7

8 40610. The Legislature finds and declares as follows:

9 (a) Residents of the San Joaquin Valley suffer some of the worst
10 air quality in the world. This poor air quality poses a significant
11 threat to public health, the environment, and the economy of the
12 valley.

13 (b) The extreme difficulty for the valley to meet state and federal
14 ambient air quality standards requires an urgent and unified
15 program that combines more strict clean air rules and regulations
16 and ongoing funding to clean up those sources that cannot be
17 regulated effectively.

18 (c) The purpose of this chapter is to establish a program for the
19 San Joaquin Valley to achieve state and federal ambient air quality
20 standards by the earliest practicable date.

21 40612. (a) In order to provide funding for air pollution control
22 programs needed to achieve and maintain state and federal air
23 quality, the district may do both of the following:

24 (1) Notwithstanding the limits on the amount of the motor
25 vehicle fee specified in Sections 44223 and 44225, increase the
26 fee established pursuant to these sections by up to, but not
27 exceeding, thirty dollars (\$30) per motor vehicle per year for the
28 purposes of establishing and implementing incentive-based

1 programs to achieve surplus emissions reductions that the district
2 determines are needed to remediate air pollution harms created by
3 motor vehicles on which the fee is imposed and that are intended
4 to achieve and maintain state and federal ambient air quality
5 standards required by the federal Clean Air Act (42 U.S.C. Sec.
6 7401 et seq.). Except for the amount of the fee, any increase shall
7 be subject to Chapter 7 (commencing with Section 44220) of Part
8 5, including, but not limited to, the adoption of a resolution
9 providing for both the fee increase and a corresponding program
10 for expenditure of the moneys raised by the increased fees for the
11 reduction of mobile source emissions.

12 (2) Notwithstanding Section 40717.9, adopt rules and regulations
13 to reduce vehicle trips in order to reduce air pollution from
14 vehicular sources.

15 (b) Fees adopted pursuant to this section are in addition to any
16 other fees imposed by the district, and may be charged in any of
17 fiscal years 2009–10 to 2023–24, inclusive. Fees may be assessed
18 after the 2012–13 fiscal year only if the United States
19 Environmental Protection Agency approves the district’s proposed
20 reclassification of its nonattainment status for ozone from severe
21 to extreme. The fees adopted pursuant to this section are for the
22 district portion of the total amount needed to achieve and maintain
23 state and federal ambient air quality standards. At least ten million
24 dollars (\$10,000,000) shall be used to mitigate the impacts of air
25 pollution on public health and the environment in
26 disproportionately impacted environmental justice communities
27 in the San Joaquin Valley. The district board shall convene an
28 environmental justice advisory committee, selected from a list
29 given to the board by environmental justice groups from the San
30 Joaquin Valley, to recommend the neighborhoods in the district
31 that constitute environmental justice communities, and how to
32 expend funds within these communities.

33 (c) (1) The fees adopted pursuant to this section shall become
34 effective after the state board makes both of the following findings:

35 (A) The district has undertaken all feasible measures to reduce
36 nonattainment air pollutants from sources within the district’s
37 jurisdiction and regulatory control.

38 (B) The district has notified the state board that fees have been
39 adopted pursuant to this section and provided the state board with

1 an estimate of the total funds that will be provided annually by
2 each of those fees.

3 (2) The state board shall file a written copy of its findings made
4 pursuant to this subdivision with the Secretary of State within two
5 days of its determination.

6 (3) The fees adopted pursuant to this section shall be collected
7 nine months after the requirements of paragraph (2) are met.

8 40613. (a) The Bureau of State Audits shall audit the district's
9 assessment and expenditure of any fees authorized pursuant to
10 Section 40612 every two years that the fee is assessed, and shall
11 submit these audits to the Legislature within two weeks of their
12 completion.

13 (b) The state board shall assess the district's progress in using
14 any fees assessed pursuant to Section 40612 to achieve and
15 maintain state and federal ambient air quality standards every two
16 years that the fee is assessed, and shall submit these assessments
17 to the Legislature within two weeks of their completion.

18 40614. The district shall submit an assessment to the
19 Legislature by January 1, 2010, on the manner in which vehicle
20 license fees or other types of fees could be imposed on vehicles
21 that are not registered in the district, but that travel through the
22 district.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.

29 SEC. 3. This bill shall only become operative if Senate Bill
30 240 of the 2007-08 Regular Session is enacted and becomes
31 effective.

AMENDED IN ASSEMBLY MARCH 24, 2008
AMENDED IN ASSEMBLY JANUARY 28, 2008
AMENDED IN ASSEMBLY SEPTEMBER 12, 2007
AMENDED IN ASSEMBLY JULY 17, 2007
AMENDED IN ASSEMBLY JUNE 27, 2007
AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 375

Introduced by Senator Steinberg
(Coauthors: Assembly Members Jones and DeSaulnier)

February 21, 2007

An act to amend Sections 14527, 65080, and 65584.01 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Sections 21061.3 and 21094 of, and to add Chapter 4.2 (commencing with Section 21155) to Division 13 of, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 375, as amended, Steinberg. Transportation planning: travel demand models: sustainable communities strategy: environmental review.

(1) Existing law requires certain transportation planning activities by the Department of Transportation and by designated regional transportation planning agencies, including development of a regional

transportation plan. Existing law authorizes the California Transportation Commission, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation.

This bill would require the commission, by July 1, 2009, to adopt guidelines for travel demand models used in the development of regional transportation plans by certain transportation planning entities. The bill would require the Department of Transportation to assist the commission, on request, in this regard, and would impose other related requirements.

This bill would also require the regional transportation plan for specified regions to include a sustainable communities strategy, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region. The bill would require the State Air Resources Board, working in consultation with the affected transportation agencies, to provide each affected region with greenhouse gas emission reduction targets from the automobile and light truck sector for 2020 and 2035 by January 1, 2010, and to update the regional targets, as specified, until 2050. The bill would require certain transportation planning and programming activities by affected regional agencies to be consistent with the sustainable communities strategy contained in the regional transportation plan, but would state that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy. To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emissions reduction targets, the bill would require affected regional agencies to prepare a supplement to the sustainable communities strategy that would achieve the targets through alternative development patterns or additional transportation measures. The bill would also require an affected regional agency to submit a statement to the California Transportation Commission describing the relationship of each project in the regional transportation improvement program to the regional transportation plan and supplement adopted by the regional agency. The bill would enact other related provisions.

Because the bill would impose additional duties on local agencies, it would impose a state-mandated local program.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (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. CEQA also 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.

This bill would require the environmental document prepared pursuant to CEQA to only examine the significant or potentially significant project specific impacts of a project located in a local jurisdiction that has amended its general plan so that the land use, housing, and open-space elements of the general plan are consistent with the sustainable communities strategy most recently adopted by the transportation planning agency, pursuant to the requirements specified in the bill, if the project meets certain requirements.

The bill would provide that no additional review is required pursuant to CEQA for a project if the legislative body of a local jurisdiction that has amended its general plan, as provided above, finds, after conducting a public hearing, that the project meets certain criteria and is declared to be a sustainable communities project.

The bill would also authorize the legislative body of a local jurisdiction to adopt traffic mitigation measures for future residential projects that meet specified criteria. The bill would exempt 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.

~~(3) 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.~~

(3) 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 the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which

require reimbursement pursuant to these constitutional and statutory provisions.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The transportation sector contributes over 40 percent of the
4 greenhouse gas emissions in the State of California; automobiles
5 and light trucks alone contribute almost 30 percent. The
6 transportation sector is the single largest contributor of greenhouse
7 gases of any sector.

8 (b) In 2006, the Legislature passed and the Governor signed
9 Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter
10 AB 32), which requires the State of California to reduce its
11 greenhouse gas emissions to 1990 levels no later than 2020. In
12 1990, greenhouse gas emissions from automobiles and light trucks
13 were approximately 73 million metric tons, but by 2006 these
14 emissions had increased to approximately 100 million metric tons.

15 (c) Greenhouse gas emissions from automobiles and light trucks
16 can be substantially reduced by new vehicle technology and by
17 the increased use of low carbon fuel. However, even taking these
18 measures into account, it will be necessary to achieve significant
19 additional greenhouse gas reductions from changed land use
20 patterns and improved transportation. Without significant changes
21 in land use and transportation policy, California will not be able
22 to achieve the goals of AB 32.

23 (d) In addition, automobiles and light trucks account for 50
24 percent of air pollution in California and 70 percent of its
25 consumption of petroleum. Changes in land use and transportation
26 policy will provide significant assistance to California's goals to
27 implement the federal and state Clean Air Acts and to reduce its
28 dependence on petroleum.

29 (e) Current federal law requires regional transportation planning
30 agencies to include a land use allocation in the regional
31 transportation plan. Some regions have engaged in a regional
32 "blueprint" process to prepare the land use allocation. This process
33 has been open and transparent. The Legislature intends, by this

1 act, to build upon that successful process and to take an
2 evolutionary step forward.

3 (f) The California Environmental Quality Act (CEQA) is
4 California’s premier environmental statute. New provisions of
5 CEQA should be enacted so that the statute encourages local
6 governments to make land use decisions that will help the state
7 achieve its climate goals under AB 32, assist in the achievement
8 of state and federal air quality standards, and increase petroleum
9 conservation.

10 (g) Current planning models and analytical techniques used for
11 making transportation infrastructure decisions and for air quality
12 planning should be able to assess the effects of policy choices,
13 such as residential development patterns, expanded transit service
14 and accessibility, the walkability of communities, and the use of
15 economic incentives and disincentives.

16 SEC. 2. Section 14522.1 is added to the Government Code, to
17 read:

18 14522.1. (a) (1) The commission, in consultation with the
19 State Air Resources Board, shall adopt guidelines for travel demand
20 models used in the development of regional transportation plans
21 by (A) federally designated metropolitan planning organizations,
22 (B) county transportation agencies or commissions in areas that
23 have been designated as nonattainment areas under the federal
24 Clean Air Act, and (C) in the Counties of Imperial, Los Angeles,
25 Orange, Riverside, San Bernardino, and Ventura, the agency
26 described in Section 130004 of the Public Utilities Code.

27 (2) The preparation of the guidelines shall include the formation
28 of an advisory committee that shall include representatives of the
29 regional transportation planning agencies, the department,
30 organizations knowledgeable in the creation and use of travel
31 demand models, local governments, and organizations concerned
32 with the impacts of transportation investments on communities
33 and the environment. The commission shall hold two workshops
34 on the guidelines, one in northern California and one in southern
35 California. The workshops shall be incorporated into regular
36 commission meetings.

37 (b) The department shall assist the commission in the preparation
38 of the guidelines, if requested to do so by the commission.

39 (c) The guidelines shall, at a minimum and to the extent
40 practicable, account for all of the following:

1 (1) The relationship between land use density and household
2 vehicle ownership and vehicle miles traveled in a way that is
3 consistent with statistical research.

4 (2) The impact of enhanced transit service levels on household
5 vehicle ownership and vehicle miles traveled.

6 (3) Induced travel and induced land development resulting from
7 highway or passenger rail expansion.

8 (4) Mode splitting that allocates trips between automobile,
9 transit, carpool, and bicycle and pedestrian trips. If a travel demand
10 model is unable to forecast bicycle and pedestrian trips, another
11 means may be used to estimate those trips.

12 (d) The guidelines shall be adopted on or before July 1, 2009.

13 SEC. 3. Section 14522.2 is added to the Government Code, to
14 read:

15 14522.2. (a) A regional transportation planning agency shall
16 disseminate the methodology, results, and key assumptions of
17 whichever travel demand model it uses in a way that would be
18 useable and understandable to the public.

19 (b) Transportation planning agencies other than those identified
20 in paragraph (1) of subdivision (a) of Section 14522.1, cities,
21 counties, and congestion management agencies within multicounty
22 regions are encouraged, but not required, to utilize the guidelines.

23 SEC. 4. Section 14527 of the Government Code is amended
24 to read:

25 14527. (a) After consulting with the department, the regional
26 transportation planning agencies and county transportation
27 commissions shall adopt and submit to the commission and the
28 department, not later than December 15, 2001, and December 15
29 of each odd-numbered year thereafter, a five-year regional
30 transportation improvement program in conformance with Section
31 65082. In counties where a county transportation commission has
32 been created pursuant to Chapter 2 (commencing with Section
33 130050) of Division 12 of the Public Utilities Code, that
34 commission shall adopt and submit the county transportation
35 improvement program, in conformance with Sections 130303 and
36 130304 of that code, to the multicounty-designated transportation
37 planning agency. For each project included in the program, a
38 statement shall be submitted to the commission describing the
39 relationship of the project to the regional transportation plan and
40 supplement, if any, prepared pursuant to Section 65080. Other

1 information, including a program for expenditure of local or federal
2 funds, may be submitted for information purposes with the
3 program, but only at the discretion of the transportation planning
4 agencies or the county transportation commissions. As used in this
5 section, “county transportation commission” includes a
6 transportation authority created pursuant to Chapter 2 (commencing
7 with Section 130050) of Division 12 of the Public Utilities Code.

8 (b) The regional transportation improvement program shall
9 include all projects to be funded with the county share under
10 paragraph (2) of subdivision (a) of Section 164 of the Streets and
11 Highways Code. The regional programs shall be limited to projects
12 to be funded in whole or in part with the county share that shall
13 include all projects to receive allocations by the commission during
14 the following five fiscal years. For each project, the total
15 expenditure for each project component and the total amount of
16 commission allocation and the year of allocation shall be stated.
17 The total cost of projects to be funded with the county share shall
18 not exceed the amount specified in the fund estimate made by the
19 commission pursuant to Section 14525.

20 (c) The regional transportation planning agencies and county
21 transportation commissions may recommend projects to improve
22 state highways with the interregional share pursuant to subdivision
23 (b) of Section 164 of the Streets and Highways Code. The
24 recommendations shall be separate and distinct from the regional
25 transportation improvement program. A project recommended for
26 funding pursuant to this subdivision shall constitute a usable
27 segment and shall not be a condition for inclusion of other projects
28 in the regional transportation improvement program.

29 (d) The department may nominate or recommend the inclusion
30 of projects in the regional transportation improvement program to
31 improve state highways with the county share pursuant to
32 paragraph (2) of subdivision (a) and subdivision (e) of Section 164
33 of the Streets and Highways Code. A regional transportation
34 planning agency and a county transportation commission shall
35 have sole authority for determining whether any of the project
36 nominations or recommendations are accepted and included in the
37 regional transportation improvement program adopted and
38 submitted pursuant to this section. This authority provided to a
39 regional transportation planning agency or to a county

1 transportation commission extends only to a project located within
2 its jurisdiction.

3 (e) Major projects shall include current costs updated as of
4 November 1 of the year of submittal and escalated to the
5 appropriate year, and shall be consistent with, and provide the
6 information required in, subdivision (b) of Section 14529.

7 (f) The regional transportation improvement program may not
8 change the project delivery milestone date of any project as shown
9 in the prior adopted state transportation improvement program
10 without the consent of the department or other agency responsible
11 for the project’s delivery.

12 (g) Projects may not be included in the regional transportation
13 improvement program without a complete project study report or,
14 for a project that is not on a state highway, a project study report
15 equivalent or major investment study.

16 (h) Each transportation planning agency and county
17 transportation commission may request and receive an amount not
18 to exceed 5 percent of its county share for the purposes of project
19 planning, programming, and monitoring.

20 SEC. 5. Section 65080 of the Government Code is amended
21 to read:

22 65080. (a) Each transportation planning agency designated
23 under Section 29532 or 29532.1 shall prepare and adopt a regional
24 transportation plan directed at achieving a coordinated and balanced
25 regional transportation system, including, but not limited to, mass
26 transportation, highway, railroad, maritime, bicycle, pedestrian,
27 goods movement, and aviation facilities and services. The plan
28 shall be action-oriented and pragmatic, considering both the
29 short-term and long-term future, and shall present clear, concise
30 policy guidance to local and state officials. The regional
31 transportation plan shall consider factors specified in Section 134
32 of Title 23 of the United States Code. Each transportation planning
33 agency shall consider and incorporate, as appropriate, the
34 transportation plans of cities, counties, districts, private
35 organizations, and state and federal agencies.

36 (b) The regional transportation plan shall include all of the
37 following:

38 (1) A policy element that describes the transportation issues in
39 the region, identifies and quantifies regional needs, and describes
40 the desired short-range and long-range transportation goals, and

1 pragmatic objective and policy statements. The objective and policy
2 statements shall be consistent with the funding estimates of the
3 financial element. The policy element of transportation planning
4 agencies with populations that exceed 200,000 persons may
5 quantify a set of indicators including, but not limited to, all of the
6 following:

7 (A) Measures of mobility and traffic congestion, including, but
8 not limited to, vehicle hours of delay per capita and vehicle miles
9 traveled per capita.

10 (B) Measures of road and bridge maintenance and rehabilitation
11 needs, including, but not limited to, roadway pavement and bridge
12 conditions.

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

16 (i) Single occupant vehicle.

17 (ii) Multiple occupant vehicle or carpool.

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

19 (iv) Walking.

20 (v) Bicycling.

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

24 (E) Measures of equity and accessibility, including, but not
25 limited to, percentage of the population served by frequent and
26 reliable public transit, with a breakdown by income bracket, and
27 percentage of all jobs accessible by frequent and reliable public
28 transit service, with a breakdown by income bracket.

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

32 (2) A sustainable communities strategy prepared as follows:

33 (A) Within the region under the jurisdiction of each of the
34 agencies described in paragraph (1) of subdivision (a) of Section
35 14522.1, no later than January 1, 2010, the State Air Resources
36 Board, working in consultation with the affected transportation
37 planning agencies and after at least one public workshop, shall
38 provide each affected region with greenhouse gas emission
39 reduction targets from the automobile and light truck sector for
40 2020 and 2035, respectively.

1 (i) The state board shall update the regional targets consistent
2 with each agency's timeframe for updating its regional
3 transportation plan under federal law until 2050.

4 (ii) In making these determinations, the state board shall consider
5 greenhouse gas emission reductions that will be achieved by
6 improved vehicle emission standards, changes in fuel consumption,
7 and other measures it has approved that will reduce greenhouse
8 gas emissions in the affected regions, and prospective measures
9 the state board plans to adopt to reduce greenhouse gas emissions
10 from other sources.

11 (B) Each agency described in paragraph (1) of subdivision (a)
12 of Section 14522.1 shall prepare a sustainable communities
13 strategy, consistent with the requirements of Part 450 of Title 23
14 of, and Part 93 of Title 40 of, the Code of Federal Regulations,
15 that (i) identifies areas within the region sufficient to house all the
16 population of the region including all economic segments of the
17 population over the course of the planning period taking into
18 account net migration into the region, population growth, household
19 formation and employment growth; (ii) identifies a transportation
20 network to service the transportation needs of the region; (iii) using
21 the best practically available scientific information, identifies
22 significant resource areas and significant farmland; (iv) sets forth
23 a development pattern for the region, a transportation network,
24 and other transportation measures that will reduce the greenhouse
25 gas emissions from automobiles and light trucks to achieve, if
26 there is a feasible way to do so, the targets developed by the board;
27 and (v) will allow the regional transportation plan to comply with
28 Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

29 (C) In the multicounty transportation planning agency described
30 in Section 130004 of the Public Utilities Code, a county and the
31 cities within that county may propose the sustainable communities
32 strategy for that county. That sustainable communities strategy
33 may be approved as part of the sustainable communities strategy
34 for the region provided that the strategy for the region complies
35 with the requirements of this section.

36 (D) A sustainable communities strategy shall be consistent with
37 the state planning priorities specified pursuant to Section 65041.1.

38 (E) In preparing a sustainable communities strategy, the
39 transportation planning agency shall consider spheres of influence
40 that have been adopted within its region.

1 (F) Each agency described in paragraph (1) of subdivision (a)
2 of Section 14522.1 and, within the jurisdiction of the Metropolitan
3 Transportation Commission, the Association of Bay Area
4 Governments shall identify the lands for growth in housing and
5 employment in the sustainable communities strategy in accordance
6 with the following priorities:

7 (i) Infill and redevelopment in existing urbanized areas, and
8 any lands within spheres of influence as of July 1, 2007.

9 (ii) Vacant lands or substantially undeveloped lands other than
10 those identified in clause (i) that are adjacent to an existing or
11 reasonably foreseeable planned development area and do not
12 include a significant resource area or significant farmlands.

13 (iii) If it is not feasible to identify lands for all of the projected
14 growth in jobs and housing on lands in clauses (i) and (ii), then it
15 may identify future development on vacant lands or substantially
16 undeveloped lands adjacent to an existing or reasonably foreseeable
17 planned development or within a city sphere of influence that
18 contain significant resource areas as defined in paragraphs (4), (5),
19 (6), or (7) of subdivision (a) of Section 65080.01 or significant
20 farmland to the extent consistent with other provisions of local,
21 state, or federal law.

22 (iv) If it is not feasible to identify lands for all of the projected
23 growth in jobs and housing on lands in clauses (i), (ii), and (iii),
24 then it may identify future development on vacant lands or
25 substantially undeveloped lands adjacent to an existing or
26 reasonably foreseeable planned development or within a city sphere
27 of influence that contain significant resource areas as defined in
28 paragraph (3) of subdivision (a) of Section 65080.01 to the extent
29 consistent with other provisions of local, state, or federal law.

30 (v) If it is not feasible to identify lands for all of the projected
31 growth in jobs and housing on lands in clauses (i), (ii), (iii), and
32 (iv), then it may identify future development on other lands, to the
33 extent consistent with other provisions of local, state, or federal
34 law, but not on significant resource areas defined in paragraph (1)
35 or (2) of subdivision (a) of Section 65080.01.

36 (vi) If the sustainable communities strategy identifies
37 development on lands in clauses (iii), (iv), or (v) it shall describe
38 feasible measures to mitigate the impact of projected development
39 on those lands.

1 (G) Prior to adopting a sustainable communities strategy, the
2 regional transportation planning agency and, within the jurisdiction
3 of the Metropolitan Transportation Commission, the Association
4 of Bay Area Governments shall either (i) find that zoning has been
5 enacted within the region for a five-year supply of the housing
6 need identified in the sustainable communities strategy, or (ii) state
7 with specificity why the development pattern set forth in the
8 sustainable communities strategy is the development pattern that
9 is most likely to occur.

10 (H) If the sustainable communities strategy, prepared in
11 compliance with subparagraph (B), is unable to reduce greenhouse
12 gas emissions to achieve the targets established by the board, the
13 regional transportation planning agency shall prepare a supplement
14 to the sustainable communities strategy that would achieve those
15 greenhouse gas emission targets through alternative development
16 patterns or additional transportation measures. The supplement
17 shall be a separate document and shall not be part of the regional
18 transportation plan.

19 (I) A sustainable communities strategy does not regulate the
20 use of land, nor shall it be subject to any state approval. Nothing
21 in a sustainable communities strategy shall be interpreted as
22 superseding or interfering with the exercise of the land use
23 authority of cities and counties within the region. Nothing in this
24 section requires an agency to approve a sustainable communities
25 strategy that would be inconsistent with Part 450 of Title 23 of, or
26 Part 93 of Title 40 of, the Code of Federal Regulations and any
27 administrative guidance under those regulations. Nothing in this
28 section relieves a public or private entity or any person from
29 compliance with any other local, state, or federal law.

30 (J) Projects programmed for funding on or before December
31 31, 2011, are not required to be consistent with the sustainable
32 communities strategy if they (i) are contained in the 2007 or 2009
33 Federal Statewide Transportation Improvement Program, (ii) are
34 funded pursuant to Chapter 12.49 (commencing with Section
35 8879.20) of Division 1 of Title 2, or (iii) were specifically listed
36 in a ballot measure prior to December 31, 2006, approving a sales
37 tax increase for transportation projects.

38 (3) An action element that describes the programs and actions
39 necessary to implement the plan and assigns implementation
40 responsibilities. The action element may describe all transportation

1 projects proposed for development during the 20-year or greater
2 life of the plan. The action element shall be consistent with the
3 sustainable communities strategy, except as provided in
4 subparagraph (J) of paragraph (2).

5 The action element shall consider congestion management
6 programming activities carried out within the region.

7 (4) (A) A financial element that summarizes the cost of plan
8 implementation constrained by a realistic projection of available
9 revenues. The financial element shall also contain
10 recommendations for allocation of funds. A county transportation
11 commission created pursuant to Section 130000 of the Public
12 Utilities Code shall be responsible for recommending projects to
13 be funded with regional improvement funds, if the project is
14 consistent with the regional transportation plan. The first five years
15 of the financial element shall be based on the five-year estimate
16 of funds developed pursuant to Section 14524. The financial
17 element may recommend the development of specified new sources
18 of revenue, consistent with the policy element and action element.

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

- 24 (i) State highway expansion.
- 25 (ii) State highway rehabilitation, maintenance, and operations.
- 26 (iii) Local road and street expansion.
- 27 (iv) Local road and street rehabilitation, maintenance, and
28 operation.
- 29 (v) Mass transit, commuter rail, and intercity rail expansion.
- 30 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
31 maintenance, and operations.
- 32 (vii) Pedestrian and bicycle facilities.
- 33 (viii) Environmental enhancements and mitigation.
- 34 (ix) Research and planning.
- 35 (x) Other categories.

36 (c) Each transportation planning agency may also include other
37 factors of local significance as an element of the regional
38 transportation plan, including, but not limited to, issues of mobility
39 for specific sectors of the community, including, but not limited
40 to, senior citizens.

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

15 SEC. 6. Section 65080.01 is added to the Government Code,
16 to read:

17 65080.01. The following definitions apply to terms used in
18 Section 65080:

19 (a) “Significant resource areas” include (1) all publicly owned
20 parks and open space; (2) open space or habitat areas protected by
21 natural community conservation plans, habitat conservation plans,
22 and other adopted natural resource protection plans; (3) habitat for
23 species identified as candidate, fully protected, sensitive, or species
24 of special status by local, state, or federal agencies or protected
25 by the federal Endangered Species Act of 1973, the California
26 Endangered Species Act, or the Native Plant Protection Act; (4)
27 lands subject to conservation or agricultural easements for
28 conservation or agricultural purposes by local governments, special
29 districts, or nonprofit 501(c)(3) organizations, and lands under
30 Williamson Act contracts; (5) areas designated for open-space
31 uses in adopted open-space elements of the local general plan or
32 by local ordinance; (6) habitat blocks, linkages, or watershed units
33 that protect regional populations of native species, including
34 sensitive, endemic, keystone, and umbrella species, and the
35 ecological processes that maintain them; and (7) an area subject
36 to flooding where a development project would not, at the time of
37 development in the judgment of the agency, meet the requirements
38 of the National Flood Insurance Program or where the area is
39 subject to more protective provisions of state law or local
40 ordinance.

1 (b) “Significant farmland” means farmland that is classified as
2 prime or unique farmland, or farmland of statewide importance
3 and is outside all existing city spheres of influence or city limits
4 as of January 1, 2007.

5 (c) “Consistent with the sustainable communities strategy”
6 means that the capacity of the transportation projects or
7 improvements does not exceed that which is necessary to provide
8 reasonable service levels for the existing population and the
9 planned growth of the region as set forth in the sustainable
10 communities strategy.

11 (d) “Feasible” means capable of being accomplished in a
12 successful manner within a reasonable period of time, taking into
13 account economic, environmental, legal, social, and technological
14 factors.

15 SEC. 7. Section 65584.01 of the Government Code is amended
16 to read:

17 65584.01. (a) For the fourth and subsequent revision of the
18 housing element pursuant to Section 65588, the department, in
19 consultation with each council of governments, where applicable,
20 shall determine the existing and projected need for housing for
21 each region in the following manner:

22 (b) The department’s determination shall be based upon
23 population projections produced by the Department of Finance
24 and regional population forecasts used in preparing regional
25 transportation plans, in consultation with each council of
26 governments. If the total regional population forecast for the
27 planning period, developed by the council of governments and
28 used for the preparation of the regional transportation plan, is
29 within a range of 3 percent of the total regional population forecast
30 for the planning period over the same time period by the
31 Department of Finance, then the population forecast developed by
32 the council of governments shall be the basis from which the
33 department determines the existing and projected need for housing
34 in the region. If the difference between the total population growth
35 projected by the council of governments and the total population
36 growth projected for the region by the Department of Finance is
37 greater than 3 percent, then the department and the council of
38 governments shall meet to discuss variances in methodology used
39 for population projections and seek agreement on a population
40 projection for the region to be used as a basis for determining the

1 existing and projected housing need for the region. If no agreement
2 is reached, then the population projection for the region shall be
3 the population projection for the region prepared by the Department
4 of Finance as may be modified by the department as a result of
5 discussions with the council of governments.

6 (c) (1) At least 26 months prior to the scheduled revision
7 pursuant to Section 65588 and prior to developing the existing and
8 projected housing need for a region, the department shall meet and
9 consult with the council of governments regarding the assumptions
10 and methodology to be used by the department to determine the
11 region's housing needs. The council of governments shall provide
12 data assumptions from the council's projections, including, if
13 available, the following data for the region:

14 (A) Anticipated household growth associated with projected
15 population increases.

16 (B) Household size data and trends in household size.

17 (C) The rate of household formation, or headship rates, based
18 on age, gender, ethnicity, or other established demographic
19 measures.

20 (D) The vacancy rates in existing housing stock, and the vacancy
21 rates for healthy housing market functioning and regional mobility,
22 as well as housing replacement needs.

23 (E) Other characteristics of the composition of the projected
24 population.

25 (2) The department may accept or reject the information
26 provided by the council of governments or modify its own
27 assumptions or methodology based on this information. After
28 consultation with the council of governments, the department shall
29 make determinations in writing on the assumptions for each of the
30 factors listed in subparagraphs (A) to (E), inclusive, of paragraph
31 (1) and the methodology it shall use and shall provide these
32 determinations to the council of governments.

33 (d) (1) After consultation with the council of governments, the
34 department shall make a determination of the region's existing
35 and projected housing need based upon the assumptions and
36 methodology determined pursuant to subdivision (c). The region's
37 existing and projected housing need shall reflect the achievement
38 of a feasible balance between jobs and housing within the region
39 using the regional employment projections in the applicable
40 regional transportation plan. Within 30 days following notice of

1 the determination from the department, the council of governments
2 may file an objection to the department’s determination of the
3 region’s existing and projected housing need with the department.

4 (2) The objection shall be based on and substantiate either of
5 the following:

6 (A) The department failed to base its determination on the
7 population projection for the region established pursuant to
8 subdivision (b), and shall identify the population projection which
9 the council of governments believes should instead be used for the
10 determination and explain the basis for its rationale.

11 (B) The regional housing need determined by the department
12 is not a reasonable application of the methodology and assumptions
13 determined pursuant to subdivision (c). The objection shall include
14 a proposed alternative determination of its regional housing need
15 based upon the determinations made in subdivision (c), including
16 analysis of why the proposed alternative would be a more
17 reasonable application of the methodology and assumptions
18 determined pursuant to subdivision (c).

19 (3) If a council of governments files an objection pursuant to
20 this subdivision and includes with the objection a proposed
21 alternative determination of its regional housing need, it shall also
22 include documentation of its basis for the alternative determination.
23 Within 45 days of receiving an objection filed pursuant to this
24 section, the department shall consider the objection and make a
25 final written determination of the region’s existing and projected
26 housing need that includes an explanation of the information upon
27 which the determination was made.

28 SEC. 8. Section 21061.3 of the Public Resources Code is
29 amended to read:

30 21061.3. “Infill site” means a site in an urbanized area that
31 meets either of the following criteria:

32 (a) The site has not been previously developed for urban uses
33 and both of the following apply:

34 (1) The site is immediately adjacent to parcels that are developed
35 with qualified urban uses, or at least 75 percent of the perimeter
36 of the site adjoins parcels that are developed with qualified urban
37 uses, and the remaining 25 percent of the site adjoins parcels that
38 have previously been developed for qualified urban uses.

1 (2) No parcel within the site has been created within the past
2 10 years unless the parcel was created as a result of the plan of a
3 redevelopment agency.

4 (b) The site has been previously developed for qualified urban
5 uses.

6 SEC. 9. Section 21094 of the Public Resources Code is
7 amended to read:

8 21094. (a) Where a prior environmental impact report has
9 been prepared and certified for a program, plan, policy, or
10 ordinance, the lead agency for a later project that meets the
11 requirements of this section shall examine significant effects of
12 the later project upon the environment by using a tiered
13 environmental impact report, except that the report on the later
14 project need not examine those effects which the lead agency
15 determines were either (1) mitigated or avoided pursuant to
16 paragraph (1) of subdivision (a) of Section 21081 as a result of the
17 prior environmental impact report, or (2) examined at a sufficient
18 level of detail in the prior environmental impact report to enable
19 those effects to be mitigated or avoided by site specific revisions,
20 the imposition of conditions, or by other means in connection with
21 the approval of the later project.

22 (b) This section applies only to a later project which the lead
23 agency determines (1) is consistent with the program, plan, policy,
24 or ordinance for which an environmental impact report has been
25 prepared and certified, (2) is consistent with applicable local land
26 use plans and zoning of the city, county, or city and county in
27 which the later project would be located, and (3) is not subject to
28 Section 21166.

29 (c) For purposes of compliance with this section, an initial study
30 shall be prepared to assist the lead agency in making the
31 determinations required by this section. The initial study shall
32 analyze whether the later project may cause significant effects on
33 the environment that were not examined in the prior environmental
34 impact report.

35 (d) All public agencies which propose to carry out or approve
36 the later project may utilize the prior environmental impact report
37 and the environmental impact report on the later project to fulfill
38 the requirements of Section 21081.

39 (e) When tiering is used pursuant to this section, an
40 environmental impact report prepared for a later project shall refer

1 to the prior environmental impact report and state where a copy
2 of the prior environmental impact report may be examined.

3 (f) If a residential, commercial, or retail project is consistent
4 with a sustainable communities strategy, as modified by a
5 supplement, if any, adopted pursuant to Section 65080 of the
6 Government Code, the environmental analysis of that project may
7 tier the analysis of the climate impacts of greenhouse gas emissions
8 from automobiles and light trucks associated with the project from
9 the environmental impact report prepared for the regional
10 transportation plan. For purposes of this section, “consistent with
11 a sustainable communities strategy” means that the use, density,
12 and intensity of the project are consistent with the use, density,
13 and intensity identified for the project area in the sustainable
14 communities strategy, as modified by a supplement, if any, and
15 any mitigation measures adopted in the environmental impact
16 report on the regional transportation plan have been or will be
17 incorporated into the project. Nothing in this subdivision restricts
18 the use of a tiered environmental impact report as otherwise
19 provided in this division.

20 SEC. 10. Chapter 4.2 (commencing with Section 21155) is
21 added to Division 13 of the Public Resources Code, to read:

22

23 CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE
24 COMMUNITIES STRATEGY

25

26 21155. (a) This chapter applies only within a local jurisdiction
27 that has amended its general plan so that the land use, housing,
28 and open-space elements of the general plan are substantially
29 consistent with the sustainable communities strategy, as modified
30 by a supplement, if any, most recently adopted by the transportation
31 planning agency pursuant to Section 65080 of the Government
32 Code for the region in which the local government is located.

33 (b) For purposes of this section, the land use, housing, and
34 open-space elements of the general plan are substantially consistent
35 with the sustainable communities strategy, as modified by a
36 supplement, if any, if the land use and housing elements designate
37 housing, retail, commercial, office, and industrial uses at levels of
38 density and intensity that are substantially consistent with the uses,
39 density, and intensity identified in the sustainable communities
40 strategy, as modified by a supplement, if any, for those locations

1 and if the open space element designates uses for significant
2 farmlands or significant resource areas that are consistent with the
3 protection of all of the resources of those lands or areas.

4 (c) Notwithstanding subdivision (a), the provisions of Sections
5 21155.1, 21155.2, and 21155.3 may be utilized for projects within
6 a local jurisdiction if the project is shown only in the supplement
7 to the sustainable communities strategy.

8 (d) Notwithstanding subdivision (a) or (c), the provisions of
9 Sections 21155.1, 21155.2, and 21155.3 may not be utilized for
10 projects identified for development on lands referenced in clause
11 (v) of subparagraph (F) of paragraph (2) of subdivision (b) of
12 Section 65080.

13 21155.1. If the legislative body finds, after conducting a public
14 hearing, that a project meets all of the requirements of subdivisions
15 (a) and (b) and one of the requirements of subdivision (c), the
16 project is declared to be a sustainable communities project and
17 shall not be subject to any other provisions of this division.

18 (a) The project complies with all of the following environmental
19 criteria:

20 (1) The project and other projects approved prior to the approval
21 of the project but not yet built can be adequately served by existing
22 utilities, and the project applicant has paid, or has committed to
23 pay, all applicable in-lieu or development fees.

24 (2) (A) The site of the project does not contain wetlands or
25 riparian areas and does not have significant value as a wildlife
26 habitat, and the project does not harm any species protected by the
27 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
28 seq.), the Native Plant Protection Act (Chapter 10 (commencing
29 with Section 1900) of Division 2 of the Fish and Game Code), or
30 the California Endangered Species Act (Chapter 1.5 (commencing
31 with Section 2050) of Division 3 of the Fish and Game Code), and
32 the project does not cause the destruction or removal of any species
33 protected by a local ordinance in effect at the time the application
34 for the project was deemed complete.

35 (B) For the purposes of this paragraph, “wetlands” has the same
36 meaning as in the United States Fish and Wildlife Service Manual,
37 Part 660 FW 2 (June 21, 1993).

38 (C) For the purposes of this paragraph:

39 (i) “Riparian areas” means those areas transitional between
40 terrestrial and aquatic ecosystems and that are distinguished by

1 gradients in biophysical conditions, ecological processes, and biota.
2 A riparian area is an area through which surface and subsurface
3 hydrology connect waterbodies with their adjacent uplands. A
4 riparian area includes those portions of terrestrial ecosystems that
5 significantly influence exchanges of energy and matter with aquatic
6 ecosystems. A riparian area is adjacent to perennial, intermittent,
7 and ephemeral streams, lakes, and estuarine-marine shorelines.

8 (ii) “Wildlife habitat” means the ecological communities upon
9 which wild animals, birds, plants, fish, amphibians, and
10 invertebrates depend for their conservation and protection.

11 (iii) Habitat of “significant value” includes wildlife habitat of
12 national, statewide, regional, or local importance; habitat for
13 species protected by the federal Endangered Species Act of 1973
14 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species
15 Act (Chapter 1.5 (commencing with Section 2050) of Division 3
16 of the Fish and Game Code), or the Native Plant Protection Act
17 (Chapter 10 (commencing with Section 1900) of Division 2 of the
18 Fish and Game Code); habitat identified as candidate, fully
19 protected, sensitive, or species of special status by local, state, or
20 federal agencies; or habitat essential to the movement of resident
21 or migratory wildlife.

22 (3) The site of the project is not included on any list of facilities
23 and sites compiled pursuant to Section 65962.5 of the Government
24 Code.

25 (4) The site of the project is subject to a preliminary
26 endangerment assessment prepared by a registered environmental
27 assessor to determine the existence of any release of a hazardous
28 substance on the site and to determine the potential for exposure
29 of future occupants to significant health hazards from any nearby
30 property or activity.

31 (A) If a release of a hazardous substance is found to exist on
32 the site, the release shall be removed or any significant effects of
33 the release shall be mitigated to a level of insignificance in
34 compliance with state and federal requirements.

35 (B) If a potential for exposure to significant hazards from
36 surrounding properties or activities is found to exist, the effects of
37 the potential exposure shall be mitigated to a level of insignificance
38 in compliance with state and federal requirements.

39 (5) The project does not have a significant effect on historical
40 resources pursuant to Section 21084.1.

- 1 (6) The project site is not subject to any of the following:
- 2 (A) A wildland fire hazard, as determined by the Department
3 of Forestry and Fire Protection, unless the applicable general plan
4 or zoning ordinance contains provisions to mitigate the risk of a
5 wildland fire hazard.
- 6 (B) An unusually high risk of fire or explosion from materials
7 stored or used on nearby properties.
- 8 (C) Risk of a public health exposure at a level that would exceed
9 the standards established by any state or federal agency.
- 10 (D) Seismic risk as a result of being within a delineated
11 earthquake fault zone, as determined pursuant to Section 2622, or
12 a seismic hazard zone, as determined pursuant to Section 2696,
13 unless the applicable general plan or zoning ordinance contains
14 provisions to mitigate the risk of an earthquake fault or seismic
15 hazard zone.
- 16 (E) Landslide hazard, flood plain, flood way, or restriction zone,
17 unless the applicable general plan or zoning ordinance contains
18 provisions to mitigate the risk of a landslide or flood.
- 19 (7) The project site is not located on developed open space.
- 20 (A) For the purposes of this paragraph, “developed open space”
21 means land that meets all of the following criteria:
- 22 (i) Is publicly owned, or financed in whole or in part by public
23 funds.
- 24 (ii) Is generally open to, and available for use by, the public.
- 25 (iii) Is predominantly lacking in structural development other
26 than structures associated with open spaces, including, but not
27 limited to, playgrounds, swimming pools, ballfields, enclosed child
28 play areas, and picnic facilities.
- 29 (B) For the purposes of this paragraph, “developed open space”
30 includes land that has been designated for acquisition by a public
31 agency for developed open space, but does not include lands
32 acquired with public funds dedicated to the acquisition of land for
33 housing purposes.
- 34 (8) The buildings in the project will comply with all green
35 building standards required by the local jurisdiction.
- 36 (b) The project meets all of the following land use criteria:
- 37 (1) The project is located on an infill site.
- 38 (2) The project is a residential project or a residential or mixed
39 use project consisting of residential uses and primarily

1 neighborhood-serving goods, services, or retail uses that do not
2 exceed 25 percent of the total floor area of the project.

3 (3) The site of the project is not more than eight acres in total
4 area.

5 (4) The project does not contain more than 200 residential units.

6 (5) The project density is at least equal to the applicable density
7 level provided in subparagraph (B) of paragraph (3) of subdivision
8 (c) of Section 65583.2 of the Government Code.

9 (6) The project does not result in any net loss in the number of
10 affordable housing units within the project area.

11 (7) The project does not include any single level building that
12 exceeds 75,000 square feet.

13 (8) The project is consistent with the general plan.

14 (9) Any applicable mitigation measures approved in the final
15 environmental impact reports on the regional transportation plan
16 or the local general plan amendment have been or will be
17 incorporated into the project.

18 (10) The project is determined not to conflict with nearby
19 operating industrial uses.

20 (c) The project meets at least one of the following four criteria:

21 (1) The project meets both of the following:

22 (A) At least 20 percent of the housing will be sold to families
23 of moderate income, or not less than 10 percent of the housing
24 will be rented to families of low income, or not less than 5 percent
25 of the housing is rented to families of very low income.

26 (B) The project developer provides sufficient legal commitments
27 to the appropriate local agency to ensure the continued availability
28 and use of the housing units for very low, low-, and
29 moderate-income households at monthly housing costs determined
30 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of
31 the Government Code. Rental units shall be affordable for at least
32 55 years. Ownership units shall be subject to resale restrictions or
33 equity sharing requirements for at least 30 years.

34 (2) The project developer has paid or will pay in-lieu fees
35 pursuant to a local ordinance in an amount sufficient to result in
36 the development of an equivalent number of units that would
37 otherwise be required pursuant to paragraph (1).

38 (3) The project is located within one-quarter mile of a major
39 transit stop.

- 1 (4) The project provides public open space equal to or greater
2 than five acres per 1,000 residents of the project.
- 3 21155.2. (a) A project that meets the following requirements
4 shall be eligible for either the provisions of subdivision (b) or (c):
- 5 (1) Environmental impact reports have been certified on the
6 regional transportation plan containing the sustainable communities
7 strategy and on the applicable general plan provisions.
- 8 (2) Any applicable mitigation measures or performance
9 standards or criteria set forth in the prior environmental impact
10 reports, and adopted in findings, have been or will be incorporated
11 into the project.
- 12 (3) The project density is at least 10 residential units per net
13 acre.
- 14 (4) At least 75 percent of the total building square footage of
15 the project consists of residential buildings.
- 16 (b) A project that satisfies the requirements of subdivision (a)
17 may be reviewed through a sustainable communities environmental
18 assessment as follows:
- 19 (1) An initial study shall be prepared to identify all significant
20 or potentially significant project-specific impacts of the project.
21 The initial study does not need to evaluate any significant
22 cumulative or growth-inducing effects on the environment that
23 were identified and discussed in the environmental impact reports
24 certified for the regional transportation plan and the general plan.
- 25 (2) The sustainable communities environmental assessment
26 shall contain measures that substantially lessen to a level of
27 insignificance or avoid all project-specific impacts of the project.
- 28 (3) A draft of the sustainable communities environmental
29 assessment shall be circulated for public comment for a period of
30 not less than 30 days. Notice shall be provided in the same manner
31 as required for an environmental impact report pursuant to Section
32 21092.
- 33 (4) Prior to acting on the sustainable communities environmental
34 assessment, the lead agency shall consider all comments received.
- 35 (5) A sustainable communities environmental assessment may
36 be approved by the lead agency after conducting a public hearing,
37 reviewing the comments received, and finding that:
- 38 (A) All potentially significant or significant project-specific
39 impacts have been identified and analyzed.

1 (B) With respect to each significant project-specific impact on
2 the environment, either of the following apply:

3 (i) Changes or alterations have been required in or incorporated
4 into the project that avoid or substantially lessen the significant
5 effects to a level of insignificance.

6 (ii) Those changes or alterations are within the responsibility
7 and jurisdiction of another public agency and have been, or can
8 and should be, adopted by that other agency.

9 (6) The legislative body of the lead agency shall conduct the
10 public hearing or a planning commission may conduct the public
11 hearing if local ordinances allow a direct appeal of approval of a
12 document prepared pursuant to this division to the legislative body
13 subject to a fee not to exceed five hundred dollars (\$500).

14 (7) The lead agency's approval of a sustainable communities
15 environmental assessment shall be reviewed under the substantial
16 evidence standard.

17 (c) A project that satisfies the requirements of subdivision (a)
18 may be reviewed by an environmental impact report that complies
19 with all of the following:

20 (1) An initial study shall be prepared to identify all the
21 project-specific impacts of the project that may have a significant
22 effect on the environment based upon substantial evidence in light
23 of the whole record. The initial study does not need to evaluate
24 any significant cumulative or growth-inducing effects on the
25 environment that were identified and discussed in the
26 environmental impact reports certified for the regional
27 transportation plan and the general plan.

28 (2) An environmental impact report prepared pursuant to this
29 subdivision need only address the significant or potentially
30 significant impacts on the environment identified pursuant to
31 paragraph (1). It is not required to analyze off-site alternatives to
32 the project. It shall otherwise comply with the requirements of this
33 division.

34 21155.3. (a) The legislative body of a local jurisdiction may
35 adopt traffic mitigation measures that would apply to future
36 projects described in subdivision (b). These measures shall be
37 adopted or amended after a public hearing and may include
38 requirements for the installation of traffic control improvements,
39 street or road improvements, and contributions to road
40 improvement or transit funds, transit passes for future residents,

1 or other measures that will avoid or substantially lessen the traffic
2 impacts of those future projects.

3 (b) The traffic mitigation measures adopted pursuant to this
4 section shall apply to projects where the residential density is at
5 least 10 units per net acre and where at least 75 percent of the total
6 building square footage of the project consists of residential
7 buildings.

8 (c) (1) A project described in subdivision (b) that is seeking a
9 discretionary approval is not required to comply with any additional
10 mitigation measures required by paragraph (1) or (2) of subdivision
11 (a) of Section 21081, for the traffic impacts of that project on
12 intersections, streets, highways, freeways, or mass transit, if the
13 local jurisdiction issuing that discretionary approval has adopted
14 traffic mitigation measures in accordance with this section.

15 (2) Paragraph (1) does not restrict the authority of a local
16 jurisdiction to adopt feasible mitigation measures with respect to
17 the impacts of a project on public health or on pedestrian or bicycle
18 safety.

19 (d) The legislative body shall review its traffic mitigation
20 measures and update them as needed at least every five years.

21 ~~SEC. 11. If the Commission on State Mandates determines~~
22 ~~that this act contains costs mandated by the state, reimbursement~~
23 ~~to local agencies and school districts for those costs shall be made~~
24 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
25 ~~4 of Title 2 of the Government Code.~~

26 *SEC. 11. The Legislature finds that there is no mandate*
27 *contained in this act that will result in costs incurred by a local*
28 *agency or school district for a new program or higher level of*
29 *service which require reimbursement pursuant to Section 6 of*
30 *Article XIII B of the California Constitution and Part 7*
31 *(commencing with Section 17500) of Division 4 of Title 2 of the*
32 *Government Code.*

Bay Area AQMD BILL DISCUSSION LIST

April 11, 2008

BILL NO.	AUTHOR	SUBJECT	BAAQMD, OTHER AGENCY POSITIONS	STATUS
AB 1807	Fuentes	Photovoltaic feed-in tariffs		Asm. U.& C.
AB 1846	Adams	Inedible kitchen grease transporters		Asm. Approps.
AB 1851	Nava	Certification of voluntary greenhouse gas emission reductions		Asm. Nat. Res.
AB 1909	Hayashi	Requires local jurisdiction approval of siting additional powerplants		Asm. U.& C
AB 1920	Huffman	Net metering of solar electric power		Asm. Nat. Res.
AB 2003	Saldana	Climate Protection and Energy Efficiency Bond Act (\$2 billion)		Asm. Nat. Res.
AB 2030	Lieu & Saldana	Requires new houses to be net energy zero by 2020, and commercial buildings by 2030		Asm. Nat. Res.
AB 2063	Parra	Increases smog check testing by making most vehicles subject to biennial inspections		Asm. Trans.
AB 2094	DeSaulnier	Adds BCDC to the JPC	MTC & ABAG support	Asm. Nat. Res.
AB 2118	Villines	Prohibits state agencies from requiring technology less than 2 years old		Asm. Bus. & Professions
AB 2179	Furutani	Requires state vehicles to use biomass based biodiesel in the future, if certain criteria are met		Asm. Approps.
AB 2241	Saldana	Fee on vehicles that are late complying with smog check		Asm. Approps.
AB 2267	Fuentes	Requires ARB to give preference to greenhouse gas projects that create jobs		Asm. Jobs
AB 2316	Ruskin	Spot bill on motor vehicle greenhouse gas emission reductions		Asm. Trans.

AB 2332	Furutani	Prevents railyard establishment or expansion near schools		Asm. Trans.
AB 2388	Feuer	Revises vehicle license fee to include fees based on weight and carbon emissions		Asm. Trans.
AB 2431	Garcia	Air quality spot bill (State Implementation Plan)		Not referred
AB 2510	La Malfa	Allows biennial (instead of annual) audits for some special districts		Asm. Loc. Govt.
AB 2522	Arambula	Allows San Joaquin Air District to increase vehicle license fee by up to \$30 annually		Asm. Loc. Govt.
AB 2536	Nunez	Allows state grants (versus loan guarantees only) to chrome platers		Asm. Approps.
AB 2538	Ruskin	Requires consumer product labeling for greenhouse gases		Asm. Nat. Res.
AB 2546	De La Torre	Requires ARB to cut emissions from non-locomotive railyard sources		Asm. Trans.
AB 2558	Feuer	Allows popular vote in greater LA on climate mitigation fee, either at the pump or via vehicle license fee		Asm. Trans.
AB 2560	Lieu	Requires efficiency standards for medium and heavy-duty state vehicles		Asm. Trans.
AB 2596	Jones	Allows local governments that cut greenhouse gases 25% beyond ARB projections to sell credits in any ARB market-based system under AB 32		Asm. Nat. Res.
AB 2625	Strickland	Adds definitions of biodiesel and renewable diesel to fuel definitions		Asm. Trans.
AB 2632	Fuller	Spot bill on market trading system for greenhouse gases		Not referred
AB 2638	Coto	Fee on new cars costing more than \$80K and getting less than 15 mpg, with funds to ARB		Asm. Trans.
AB 2645	Nunez	Amends definitions of full fuel cycle in 2007's AB 118		Asm. Trans.
AB 2655	DeSaulnier	Requires crankcase retrofits, and new rules for HVAC system work at schools		Asm. Trans.
AB 2744	Huffman	Allows Bay Area popular vote on gas fee for climate change reduction	Support (also MTC Support)	Asm. Trans.
AB 2768	Levine	Allows flat rate for solar electric generators if they prefer over a stepped rate		Asm. U.&C.
AB 2851	Adams	Spot bill on new source review language		Not referred.
AB 2865	De Leon	Increases ARB's Moyer setaside for multi-district projects from 10% to 20%		Asm. Trans.
AB 2868	De Leon	Uses funds from 2007's AB 118 for 'green collar' job creation		Asm. Trans.

AB 2869	De Leon	Establishes Community Empowerment Advisory Committee to ARB on environmental justice issues around AB 32		Asm. Nat. Res.
AB 2922	DeSaulnier	Clarifies civil penalty authority for ARB		Asm. Trans.
AB 2962	Furutani	Spot bill on air penalties for motor vehicle emissions standards violations		Not referred
AB 2991	Nunez	Adds 2 climate experts to ARB research screening committee		Asm. Approps.
AB 3001	Hancock	California Voluntary Carbon Offset Commission		Asm. Nat. Res.
SB 375	Steinberg	Changes in transportation and land use planning to reduce VMT	MTC: Support; CSAC: SIA League of Cities: OUA	Asm. Approps.
SB 1143	Dutton	HOV lane spot bill		Sen Rules
SB 1195	Battin	Spot bill on motor vehicle emission controls		Sen. Rules
SB 1223	Runner	Air quality spot bill		Sen. Rules
SB 1240	Kehoe	Requires ARB to adopt by regulation a Low Carbon Fuel Standard		Sen. Env.Qual.
SB 1374	Battin	Allows HOV lane access for those who pay a fee to offset their carbon emissions		Sen. Trans.& Housing
SB 1468	Oropeza	Bans new schoolsites within ¼ mile of a freeway		Sen. Env. Qual.
SB 1548	Florez	Bill on city selection committee process for San Joaquin AQMD		Sen. Loc. Govt.
SB 1549	Florez	Study of historic license plate programs in California		Sen. Trans.& Housing
SB 1550	Florez	Requires companies to disclose their risks and opportunities from climate change		Sen. Env.Qual.
SB 1573	Florez	Has ARB rather than Bureau of Automotive Repair set smog check cutpoints		Sen. Approps.
SB 1574	Florez	Establishes Biodiesel Commission to promote the fuel		Sen. Agriculture
SB 1646	Padilla	Extends sunset on South Coast \$1 registration fee surcharge		Sen. Approps.
SB 1662	Cox	Allows emission reduction credit trading more geographically broadly		Sen. Env. Quality
SB 1720	Lowenthal	Makes it illegal to forge clean air vehicle HOV decals		Sen. Approps.

SB 1724	Maldonado	States legislative intent to allow carbon credits for agricultural activity		Sen. Rules
SB 1731	Yee	Allows MTC to collect \$1 registration fee surcharge to cut congestion		Sen. Approps.
SB 1737	Kehoe	Progress report on fueling infrastructure for electric and natural gas vehicles		Sen. U.&C.
SB 1759	Perata	Concerns construction of new natural gas powerplants in California		Sen. Rules
SB 1760	Perata	Creates Climate Action Team to coordinate state's overall climate policy		Sen. Env. Qual.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2008

Re: UPDATE ON AB 2744 (HUFFMAN)

RECOMMENDED ACTION:

None. Informational item.

DISCUSSION

A new version of this bill, to allow a vote of the people in the Bay Area on a regional gasoline fee for climate change, was printed on April 8, 2008. A copy of the current language is attached for the Committee's review. Staff is pleased to report that the bill contains significant amendments that the Air District sought. The bill is currently scheduled to be heard April 14, 2008 in the Assembly Transportation Committee. Staff will brief the Committee on the current bill language and how it fared in its first policy committee at the meeting on April 21, 2008.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2744

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members DeSaulnier, Hancock, Lieber,
Swanson, and Torrico)
(Coauthor: Senator Torlakson)

February 22, 2008

An act to ~~amend Sections 8502, 8503, 8504, 8505, 8506, 8507, 8508, 8509, and 8510~~ add Section 66538 to the Government Code, and to repeal Chapter 12 (commencing with Section 8500) of Part 2 of Division 2 of the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, as amended, Huffman. Metropolitan Transportation Commission: fee: motor vehicle fuel.

(1) Under existing law, the Metropolitan Transportation Commission is created to provide comprehensive regional transportation planning for the 9-county region comprising the commission's jurisdiction. Generally, the commission is responsible for planning, approving, and carrying out various transportation-related activities within the region, including functions pertaining to highways, toll bridges, and transit systems.

~~The~~

Existing law authorizes the commission ~~is authorized~~ to impose a tax on the privilege of selling within the region motor vehicle fuel, as defined, excluding motor vehicle fuel used to power aircraft, upon approval of the measure by the voters within the region at an election.

This bill would *repeal this authorization. It would instead* authorize the commission to impose a fee on each gallon of motor vehicle fuel, as defined, delivered into the fuel supply tank or tanks of a motor vehicle *operated on the streets or highways* in the region, ~~excluding motor vehicle fuel used to power aircraft~~, for a 25-year period. The bill would require the commission to adopt a regional ~~transportation/climate~~ *transportation and climate* protection expenditure plan for the revenues derived from the fee, if it is imposed. The fee would be levied at a rate established by the commission, but not exceeding \$0.10 per gallon.

The commission would be authorized to impose the fee upon approval of the ~~measure~~ *imposition* by the voters within the region at the election.

The bill would require the commission to contract with the State Board of Equalization to administer the fee *and to create a fund into which fee revenues would be deposited.*

The bill would impose a state-mandated local program by requiring, upon the request of the commission, the board of supervisors of each county and city and county within the region to submit to the voters at a local election consolidated with a statewide primary or general election specified by the commission a measure, adopted by the commission, authorizing the commission to impose the fee for a 25-year period. The bill would require the commission to reimburse each county and city and county in the region for the cost of submitting the measure to the voters. The bill would provide that these costs shall be reimbursed from revenues derived from the fee if the measure is approved by the voters and from any available funds of the commission if the measure is not approved.

(2) 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 the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

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

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

1 *SECTION 1. Section 66538 is added to the Government Code,*
2 *to read:*

3 66538. (a) *The Legislature finds and declares all of the*
4 *following:*

5 (1) *The California Global Warming Solutions Act of 2006*
6 *(Division 25.5 (commencing with Section 38500) of the Health*
7 *and Safety Code) requires California to reduce statewide*
8 *greenhouse gas emissions to 1990 levels by 2020.*

9 (2) *The transportation sector is responsible for approximately*
10 *40 percent of statewide greenhouse gas emissions and significant*
11 *degradation of public health and environmental quality due to air*
12 *and water pollution.*

13 (3) *Fully 50 percent of the bay area’s greenhouse gas emissions*
14 *come from the transportation sector, making transportation the*
15 *leading contributor of climate change pollution in the bay area.*

16 (4) *The Department of Finance has determined that the*
17 *population of the bay area is rapidly growing and will reach almost*
18 *nine million by 2030. According to the Metropolitan Transportation*
19 *Commission, average weekday daily vehicle miles traveled is*
20 *projected to increase 41 percent between 2000 and 2030.*

21 (5) *Accordingly, it is the intent of the Legislature to allow bay*
22 *area voters to decide whether to alleviate burdens on the global*
23 *climate by imposing a fee on motor vehicle fuel and using the funds*
24 *derived from that fee to reduce and mitigate climate changing*
25 *emissions from transportation.*

26 (b) *For purposes of this section, the following definitions apply:*

27 (1) *“Commission” means the Metropolitan Transportation*
28 *Commission, which has the same meaning as that term is described*
29 *in Section 66502.*

30 (2) *“District” means the Bay Area Air Quality Management*
31 *District, which has the same meaning as that term is described in*
32 *Section 40200 of the Health and Safety Code.*

33 (3) *“Fee” means a fee imposed on motor vehicle fuel to mitigate*
34 *greenhouse gas pollution caused by emissions from the*
35 *consumption of motor vehicle fuel, by reducing emissions.*

36 (4) *“Greenhouse gas” and “greenhouse gases” have the same*
37 *meanings as those terms are defined in subdivision (g) of Section*
38 *38505 of the Health and Safety Code.*

1 (5) “Motor vehicle” means and includes every self-propelled
2 vehicle operated or suitable for operation on a public street or
3 highway in the bay area.

4 (6) “Motor vehicle fuel” means gasoline or any other
5 combustible liquid, regardless of the name by which the liquid is
6 known or sold, the chief use of which in this state is for the
7 propulsion of motor vehicles.

8 (7) “Transportation and climate protection expenditure plan”
9 means the expenditure plan adopted by the commission and the
10 district and approved by voters.

11 (c) If approved by the voters of the bay area pursuant to
12 subdivision (e), the commission may impose a greenhouse gas
13 mitigation fee on each gallon of motor vehicle fuel that is delivered
14 into the fuel supply tank or tanks of a motor vehicle in the region.
15 The fee shall be levied at a rate established by the commission,
16 which shall not exceed ten cents (\$0.10) per gallon. Commencing
17 on January 1 of the year following the election approving the fee,
18 the fee may be imposed for a period not to exceed 25 years.

19 (d) (1) Prior to imposing the fee, the commission and district
20 shall jointly adopt a regional transportation and climate protection
21 expenditure plan for the revenues derived from the fee. The
22 transportation and climate protection expenditure plan shall fund
23 programs and projects to cost effectively reduce greenhouse gas
24 emissions directly associated with the operation of motor vehicles.
25 The regional transportation and climate protection expenditure
26 plan shall describe proposed transportation projects and programs
27 and the estimated cost of each. Adoption of the expenditure plan
28 by the commission and district shall include a finding by the
29 commission and district that the expenditure plan will achieve a
30 nexus between payment of the motor fuel fee and the mitigation of
31 greenhouse gas emissions.

32 (2) In developing the expenditure plan, the commission and
33 district shall prioritize expenditures that are most cost effective at
34 producing reductions in greenhouse gas emissions from motor
35 vehicle use in the bay area. These reductions should include the
36 associated greenhouse gas emission reduction benefits of reduced
37 traffic congestion to ensure the reductions accurately reflect the
38 full benefits of the project or program. The expenditure plan
39 development process shall include the development of a diverse
40 working group, with representatives from regional agencies and

1 commissions, local agencies such as cities, counties, and
2 congestion management agencies, nonprofit transportation and
3 land use experts, academic institutions working on climate change
4 and vehicle miles traveled reduction, and other interested groups.
5 This working group shall make recommendations to the commission
6 and the district on which projects to include in the expenditure
7 plan.

8 (3) Estimates of cost, greenhouse gas reduction, and mobility
9 improvement for each project shall be prepared by the commission
10 and district, in consultation with project sponsors. An equity
11 analysis will be conducted, showing the costs and benefits to each
12 income group of the proposed expenditure plan. A goal of the
13 transportation and climate protection expenditure plan is to select
14 projects that cost effectively reduce climate emissions, and provide
15 at least as much benefit to low-income households, on average,
16 as may be imposed in costs. Estimates of other funding required
17 to complete any project shall be based on an estimate of funds
18 reasonably expected to be available during the 25-year period
19 commencing with the year that the fee is initially imposed.

20 (4) If not otherwise available, sufficient funding shall be
21 included in the cost estimates and expenditure plan presented to
22 the voters to operate and maintain each included project for the
23 duration of the fee.

24 (e) (1) Following the joint adoption by the commission and
25 district of a regional transportation and climate protection
26 expenditure plan, the board of supervisors of each county and city
27 and county in the region shall, upon the request of the commission
28 and district, submit to the voters at a local election consolidated
29 with a statewide primary or general election specified by the
30 commission, a measure, adopted by the commission, authorizing
31 the commission to impose the fee throughout the region.

32 (2) The measure may not be grouped with state or local
33 measures on the ballot, but shall be set forth in a separate category.

34 (3) The commission shall reimburse each county and city and
35 county in the region for the cost of submitting the measure to the
36 voters. These costs shall be reimbursed from revenues derived
37 from the fee if the measure is approved by the voters or, if the
38 measure is not approved, from any funds of the commission that
39 are available for general transportation planning.

1 (f) Upon approval of the measure by the margin of voters within
2 the region voting at a local election as determined necessary by
3 the California Constitution or other applicable statutory provisions,
4 the commission may impose the fee in all counties in the region in
5 which the measure appeared on the ballot.

6 (g) The commission shall contract with the State Board of
7 Equalization for the administration of the fee imposed under this
8 section, and the board shall be reimbursed for its actual cost in
9 the administration of the fee and for its actual cost of preparation
10 to administer the fee based upon an independent audit.

11 (h) The net revenues shall be deposited into the Transportation
12 Fund for Climate Protection, to be created and administered by
13 the commission, and shall be expended in accordance with this
14 section.

15 (i) The net revenues received by the commission shall be
16 expended only in accordance with the regional transportation and
17 climate protection expenditure plan adopted pursuant to
18 subdivision (d), except that the commission may deduct from those
19 revenues funds to reimburse the commission and district for
20 expenses incurred in the initial implementation of this section and
21 thereafter, its cost of administration, not to exceed 5 percent of
22 annual net revenues.

23 (j) In order to be eligible for funds derived from the fee, project
24 sponsors shall comply with all applicable commission and district
25 rules, regulations, and recommendations including, but not limited
26 to, those adopted pursuant to Section 66516, and Sections 99244
27 and 99246 of the Public Utilities Code. In consultation with its
28 working group and other interested parties, the commission shall
29 also develop and implement a program to ensure that project
30 sponsors expend funds derived from the fee in an efficient and
31 effective manner. No operating or maintenance funding provided
32 from the fee shall be used to supplant any funds within the
33 discretionary control of the recipient agency that are used for
34 existing transportation operating or maintenance activities.

35 (k) The regional transportation and climate protection
36 expenditure plan shall include a process of ensuring periodic
37 public review of the progress of the regional transportation and
38 climate protection expenditure plan and citizen oversight.

39 (l) The commission shall update the transportation and climate
40 expenditure plan to reflect the completion of projects included in

1 *the initial voter-approved plan and to add additional projects that*
2 *meet the requirements of subdivision (d) after a minimum of two*
3 *public hearings in accordance with subdivision (j). Any amendment*
4 *shall comply with all of the requirements for the plan prescribed*
5 *by this section.*

6 *(m) The provisions of this section are severable. If any provision*
7 *of this section or its application is held invalid, that invalidity shall*
8 *not affect other provisions or applications that can be given effect*
9 *without the invalid provision or application.*

10 *SEC. 2. Chapter 12 (commencing with Section 8500) of Part*
11 *2 of Division 2 of the Revenue and Taxation Code is repealed.*

12 *SEC. 3. The Legislature finds that there is no mandate*
13 *contained in this act that will result in costs incurred by a local*
14 *agency or school district for a new program or higher level of*
15 *service which require reimbursement pursuant to Section 6 of*
16 *Article XIII B of the California Constitution and Part 7*
17 *(commencing with Section 17500) of Division 4 of Title 2 of the*
18 *Government Code.*

19 ~~SECTION 1. Section 8502 of the Revenue and Taxation Code~~
20 ~~is amended to read:~~

21 ~~8502. The commission may impose a fee on each gallon of~~
22 ~~motor vehicle fuel, as defined by Section 7326, that is delivered~~
23 ~~into the fuel supply tank or tanks of a motor vehicle in the region.~~
24 ~~The fee shall not apply to motor vehicle fuel used to power aircraft.~~
25 ~~The fee shall be levied at a rate established by the commission,~~
26 ~~but not exceeding ten cents (\$0.10) per gallon. Commencing on~~
27 ~~January 1 of the year following the election approving the fee, the~~
28 ~~fee may be imposed for a period not to exceed 25 years.~~

29 ~~SEC. 2. Section 8503 of the Revenue and Taxation Code is~~
30 ~~amended to read:~~

31 ~~8503. (a) Prior to imposing the fee, the commission shall adopt~~
32 ~~a regional transportation/climate protection expenditure plan for~~
33 ~~the revenues derived from the fee. The regional~~
34 ~~transportation/climate protection expenditure plan shall describe~~
35 ~~proposed transportation projects and programs and the estimated~~
36 ~~cost of each. Adoption of the expenditure plan by the commission~~
37 ~~shall include a finding by the commission that the expenditure~~
38 ~~plan will achieve a nexus between payment of motor fuel fee and~~
39 ~~benefit received. Benefit, in this context, includes long-term~~

1 offsetting of the congestion and climate change impacts of motor
2 fuel consumption.

3 (b) The regional transportation/climate protection expenditure
4 plan shall also meet the following minimum objectives and criteria:

5 (1) Project expenditures shall reflect an equitable distribution
6 of revenues throughout the region with not less than 95 percent of
7 revenues from each county, based on population, being invested
8 over the 25-year life of the fee in projects attributable to that
9 county. In addition, during every five-year period, no less than 80
10 percent of the revenues from each county, based on population,
11 invested during that period shall be invested in projects attributable
12 to that county. The commission shall allocate any accrued interest
13 according to the same formula. At the time of the development of
14 the expenditure plan, the commission shall use population data
15 from the most recent United States census, and shall take into
16 account estimated increases in population over the 25-year period
17 projected by the Association of Bay Area Governments.

18 (2) Projects and programs included in the expenditure plan shall
19 be consistent with the commission's regional transportation/climate
20 protection plan. In developing the expenditure plan, the
21 commission, in prioritizing expenditures that are most
22 cost-effective at producing ongoing reduction in carbon emissions
23 from motor vehicle use in the bay area relative to the likely
24 status-quo trends, so as to offset the carbon-producing and
25 congestion-producing effects of consumption of motor vehicle
26 fuel, shall give additional consideration to projects or programs
27 where local land use policies reduce overall vehicle miles traveled.
28 The expenditure plan development process shall include
29 consultation with cities, counties, transit operators, congestion
30 management agencies, the Bay Area Air Quality Management
31 District, climate protection and energy efficiency experts, and
32 other interested groups.

33 (3) Estimates of cost, carbon reduction, and mobility
34 improvement for each project shall be prepared by the commission,
35 in consultation with project sponsors, and verified by an
36 independent expert retained by the commission for that purpose.
37 Estimates of other funding required to complete any project shall
38 be based on an estimate of funds reasonably expected to be
39 available during the 25-year period commencing with the year that
40 the fee is initially imposed.

1 ~~(4) If not otherwise available, sufficient funding shall be~~
2 ~~included in the cost estimates and expenditure plan presented to~~
3 ~~the voters to operate and maintain each included project for the~~
4 ~~duration of the fee.~~

5 SEC. 3. ~~Section 8504 of the Revenue and Taxation Code is~~
6 ~~amended to read:~~

7 ~~8504. (a) Following the adoption by the commission of a~~
8 ~~regional transportation/climate protection expenditure plan, the~~
9 ~~board of supervisors of each county and city and county in the~~
10 ~~region shall, upon the request of the commission, submit to the~~
11 ~~voters at a local election consolidated with a statewide primary or~~
12 ~~general election specified by the commission, a measure, adopted~~
13 ~~by the commission, authorizing the commission to impose the fee~~
14 ~~throughout the region.~~

15 ~~(b) The measure may not be grouped with state or local measures~~
16 ~~on the ballot, but shall be set forth in a separate category and shall~~
17 ~~be identified as Regional Measure 3.~~

18 ~~(c) Regardless of the system of voting used, the wording of the~~
19 ~~measure shall read as follows:~~

20 ~~—~~

21 ~~“To reduce global warming pollution, improve energy efficiency,~~
22 ~~promote energy independence, improve local transportation~~
23 ~~options, and reduce traffic congestion, shall voters authorize a Bay~~
24 ~~Area Regional Transportation Fund for Climate Protection that~~

- 25 ~~● Increases public transit options, reliability, and ridership~~
- 26 ~~● Increases housing supply near transit~~
- 27 ~~● Increases safety and use of walking and bicycling~~
- 28 ~~● Promotes fuel efficient vehicles and clean fuels~~

29 ~~By implementing a _____ cents per gallon fee on each gallon of~~
30 ~~gasoline that is delivered into the tanks of motor vehicles in the~~
31 ~~bay area?”~~

32 ~~—~~

33 ~~(d) The commission shall reimburse each county and city and~~
34 ~~county in the region for the cost of submitting the measure to the~~
35 ~~voters. These costs shall be reimbursed from revenues derived~~
36 ~~from the fee if the measure is approved by the voters or, if the~~
37 ~~measure is not approved, from any funds of the commission that~~
38 ~~are available for general transportation planning.~~

39 SEC. 4. ~~Section 8505 of the Revenue and Taxation Code is~~
40 ~~amended to read:~~

1 8505. Upon approval of the measure by the margin of voters
2 within the region voting at a local election as determined necessary
3 by the California Constitution or other applicable statutory
4 provisions, the commission may impose the fee in all counties in
5 the region in which the measure appeared on the ballot.

6 ~~SEC. 5. Section 8506 of the Revenue and Taxation Code is~~
7 ~~amended to read:~~

8 8506. The commission shall contract with the State Board of
9 Equalization for the administration of any fee imposed under this
10 chapter, and the board shall be reimbursed for its actual cost in the
11 administration of the fee and for its actual cost of preparation to
12 administer the fee based upon an independent audit.

13 ~~SEC. 6. Section 8507 of the Revenue and Taxation Code is~~
14 ~~amended to read:~~

15 8507. The State Board of Equalization shall adopt the necessary
16 rules and regulations to administer the fee.

17 ~~SEC. 7. Section 8508 of the Revenue and Taxation Code is~~
18 ~~amended to read:~~

19 8508. After deducting its cost of administering the fee, the
20 State Board of Equalization shall periodically transmit the net
21 revenues to the commission as promptly as possible. Transmittal
22 of those revenues shall be made at least twice in each calendar
23 quarter.

24 ~~SEC. 8. Section 8509 of the Revenue and Taxation Code is~~
25 ~~amended to read:~~

26 8509. The net revenues received by the commission shall be
27 expended only in accordance with the regional
28 transportation/climate protection expenditure plan adopted pursuant
29 to Section 8503, except that the commission may deduct from
30 those revenues funds to reimburse it for expenses incurred in the
31 initial implementation of this chapter, and thereafter, its cost of
32 administration, not to exceed 1 percent of annual net revenues.

33 ~~SEC. 9. Section 8510 of the Revenue and Taxation Code is~~
34 ~~amended to read:~~

35 8510. In order to be eligible for funds derived from the fee,
36 project sponsors shall comply with all applicable commission rules
37 and regulations including, but not limited to, those adopted
38 pursuant to Section 66516 of the Government Code and Sections
39 99244 and 99246 of the Public Utilities Code. In consultation with
40 cities, counties, transit operators, congestion management agencies,

1 and other interested groups, the commission shall also develop
2 and implement a program to ensure that project sponsors expend
3 funds derived from the fee in an efficient and effective manner.
4 No operating or maintenance funding provided from the fee shall
5 be used to supplant any funds within the discretionary control of
6 the recipient agency that are used for existing transportation
7 operating or maintenance activities.

8 SEC. 10. The Legislature finds that there is no mandate
9 contained in this act that will result in costs incurred by a local
10 agency or school district for a new program or higher level of
11 service which require reimbursement pursuant to Section 6 of
12 Article XIII B of the California Constitution and Part 7
13 (commencing with Section 17500) of Division 4 of Title 2 of the
14 Government Code.

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