

SUMMARY OF THE DEAL POINTS OF SB 375

I. OUTLINE: THREE SECTIONS OF SB 375

SB 375 is long and complex. It deals with multiple issues. But this complexity is necessary to the extent that it is seeking to align three separate regional planning processes. To offset some of this complexity, it's helpful to think about the bill in the following three "buckets:"

1. GHG Planning Process
2. CEQA Benefits
3. RHNA Alignment

The memo summarizes the bill within each of these buckets. It also adds an "Odds-n-Ends" section to cover a couple of additional points. Finally, this description does not summarize every clause or amendment. It is merely reviews the main deal points.

II. GHG PLANNING WITHIN REGIONAL TRANSPORTATION PROCESS

- **Scope.** The bill applies to the state's 17 metropolitan planning organizations (MPOs).
- **Target Committee to Advise CARB.** A Regional Targets Advisory Committee will recommend protocols for setting GHG reduction targets for the regions. The League, CSAC and "planning organizations" are included in the committee's membership.
- **Plan to Achieve the Target.** Planning for GHG reductions occurs in one of two ways depending on whether the land use baseline used in the regional transportation plan (called the "Sustainable Communities Strategy" or "SCS") will achieve the target. If yes, then no further planning is necessary. If no, the region submits a separate "Alternative Planning Strategy" (APS) that shows how the target could be achieved.
- **Specific Outreach to Local Elected Officials.** The MPO must hold at least two workshops for local officials, or just one workshop if attended by a majority of agencies representing a majority of the population of the region. These workshops are specifically for the local elected to comment and share concerns.
- **Stakeholder and Public Participation.** There are three key opportunities for input. First, the process for setting a specific regional target includes a workshop within the region and an extended period of information exchange between the California Air Resources Board (CARB) and the region. Second, before the development of a draft SCS/APS, the MPO must hold three workshops within each county. And third, once completed, the draft SCS/APS must be circulated for at least 90 days and the MPO must hold three public hearings in different parts of each region.

- ***Certification of Plan by CARB.*** The region submits the SCS or APS to CARB for certification. The board may certify that the plan is sufficient to meet the target or reject it. If rejected, the board must provide its reasoning. No conditional approvals.
- ***No Mandatory Allocations.*** The planning priority provisions in 65080(b)(2)(F)), which have been criticized as creating “concentric circles,” have been eliminated. The regions need only “gather and consider” information about important resources and farmlands, but there is no requirement to act.
- ***RHNA Consistency; General Plan Consideration.*** In addition to projecting growth patterns for the next 20 years (current law), the SCS/APS must account for the RHNA allocation. It also must consider all current general plans.
- ***Environmental Resources.*** The definitions of resource areas and farmlands have been narrowed. The description of habitat areas is eliminated and replaced by the phrase “biological resources” as defined in Appendix G of the CEQA Guidelines. These resources need only be gathered and considered as part of the RTP process.

III. CEQA BENEFITS for CONSISTENCY with GHG TARGET

- ***New Exemption from Analyzing GHG Emissions from Cars and Light Trucks.*** A residential or mixed use residential project that is consistent with a CARB-certified SCS/APS need not analyze GHG emissions caused by cars and light trucks. A “mixed use residential project” is 50% residential in infill areas, and 75% elsewhere.
- ***Growth Inducing and Cumulative Impacts Related to Traffic.*** Residential and mixed use residential projects (as defined above) that are consistent with the SCS/APS need not address growth inducing or cumulative impacts from cars and light trucks generated by the project or regional transportation network.
- ***Reduced Density Alternative Need Not Be Analyzed.*** Environmental documents are not required to analyze reduced density as an alternative to address the effects of cars and light duty trucks generated by the project on global warming or the regional transportation network or to address growth inducing impacts.
- ***Regional Transportation Network Defined.*** Includes all existing and proposed transportation improvements in the transportation and air quality conformity modeling within the RTP. However, projects must still comply with any conditions, exactions, or fees for the mitigation of the project’s impacts on the regional transportation network or local streets and roads.
- **** Transit Priority Projects.*** Transit Priority Projects are defined to be projects that are consistent with the SCS/APS, are at least 50 percent residential, have a density of at least 20 units per net acre, and are within a half mile of a transit corridor that has a

minimum 15 minute service at peak times. These projects are entitled to either a CEQA exemption or streamlined analysis as provided below: (Earlier versions required the local agency to bring its entire general plan into conformance before this relief could be sought, that requirement has been struck.)

- * *CEQA Exemption*. Projects that meet this standard, are smaller than 8 acres and 200 units, and meet a number of other environmental thresholds (e.g., no habitat, wetlands, comply with green building standards to name a few) and at least 20 percent of the units are affordable to moderate income purchasers or set aside open space at a ratio of 5 acres per 1000 people are exempt from CEQA.
- * *SCS/APS Environmental Assessment*. Projects that are not exempt nevertheless qualify for a streamlined CEQA process when the following three conditions are met: (1) consistent with the SCS/APS; (2) where an EIR on the regional transportation network has been completed; and (3) the project incorporates all mitigation measures from all applicable environmental documents. The abbreviated process, among other things, allows the initial study to focus on project specific impacts, exempts any analysis of cumulative or growth inducing impacts consistent with the SCS/APS, and allows a shorter comment period.
- * *Traffic Mitigation Streamlining*. Local agencies can adopt a set of traffic mitigation measures for projects that are at least 10 units per acres and 75% residential. Once adopted, the project need not comply with any other traffic mitigation measures. The agency must update the mitigation measures every five years.

** These provisions are in a separate mock up document. They are similar to the provisions that are already in print. The main change is that they apply when a specific project is consistent with the SCS/APS, instead of the entire general plan.*

IV RHNA ALIGNMENT

- *SCS/APS Consistency*. RHNA Allocation must be consistent with SCS/APS (though every community will get at least some allocation to further the fair share principle).
- *8 Year Timing and Plan Alignment*. RHNA planning period extended from 5 to 8 years. The Council of Governments (COG) distributes RHNA at beginning of planning period, which is same time that development pattern for RTP and SCS/APS is established. Thus, three planning processes are aligned.
- *Self Certification*. The current process that allows a local agency to certify that their housing element is still recognized in the law.
- *Failure to Submit a Housing Element Penalty*. Local agencies that fail to submit a valid housing element or do not self certify are subject to a four year review cycle.

- ***Zoning Deadlines.*** Housing element due to HCD one year into the planning period. All zoning must be complete within 3 years later, beginning when the local agency has received final comments from HCD.
- ***One Year Extension to Zone.*** A one year extension is available to local agencies upon making one of the following three findings and completing 75% of the zoning in their program: (1) laws, actions, or omissions of other governmental entities prevent local agency from adopting zoning; (2); infrastructure constraints or deficiencies prevent the establishment of zoning standards; (3) accommodating the allocation requires significant amendments to the general plan.
- ***No HCD Review of Zoning Timelines.*** No HCD review of this finding, but local government must send to HCD a schedule of proposed actions that will be undertaken within the extended period to meet the zoning target.
- ***Penalty for Missing Zoning Timelines.*** Failure to meet zoning timeline allows potential court sanctions that can be imposed by court. The court must make finding and consider potential sanctions within 60 days of filing. But before making decision, court must consider all equitable factors that have led to the delay.
- ***New Anti-NIMBY Provision.*** This provision applies only to projects that are more than 49% affordable (in effect, 100% affordable) where the housing element indicates a site is suitable for residential development but that zoning has not yet been completed. In such cases, local agencies can only deny the project for previously quantified health and safety reasons (a very hard standard to meet).
- ***Timelines for Programs.*** Local agencies must put a timeline on their programs and report out on a bi-annual basis on the progress that is being made.

V. ODDS-n-ENDS

- ***Funding of Infill Infrastructure.*** We have argued that if state policy is going to encourage compact development, we have to revisit how we fund infill infrastructure. Development fees and assessments are not enough. Although SB 375 does not address this issue directly, the Senator has agreed to work with this League on this issue during his term as pro tem and will send the League a letter to that effect.
- ***Funding for Planning.*** Similarly, the bill does not include any funding for planning. We are told that the Senator will address some of these issues in SB 732, which would appropriate Prop 84 funding related to sustainable planning. Although the funding itself would be positive, the League continues to monitor this bill to assure that it meets with the League's principles on the infrastructure funding adopted by the Board in 2007.