

To: Olin Woods, Chair, and Members of the
Yolo County Local Agency Formation Commission

From: Elizabeth Castro Kemper, Executive Officer

Date: September 22, 2008

Subject: Consider request of Orange County LAFCO letter of opposition to SB 375

Recommended Action

Consider request of Orange County LAFCO to oppose SB 375 (Steinberg) and send a letter of opposition to the Governor prior to his signature of the pending legislation.

Fiscal Impact

There should be no direct cost to the Yolo LAFCO by the passage or termination of this legislation.

Reason for Recommended Action

The Orange County LAFCO has requested the other LAFCOs throughout the state to consider a stance of opposition to SB 375. However, SB 375 has passed and is waiting the Governor's signature once the budget is approved.

Background

The CALAFCO Executive Board has voted to support this bill with amendments. The majority of the requested amendments were integrated into the successful bill. Currently the approved legislation is awaiting the Governor's signature pending passage of the final state budget.

This bill directs the California Transportation Commission to maintain guidelines for travel demand models used to create regional transportation plans. It also requires the CTC to form an advisory committee to work on the guidelines. This legislation also directs affected state, regional and local

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entities to address greenhouse gas emissions, sustainable community strategies and housing elements sections in new ways. This legislation does acknowledge that this is a new state mandated program and needs to have state reimbursement for the cost.

The opposition believes this bill reduces the ability of local government to rule locally. Those in support believe that regional approaches to transportation, growth and housing are crucial to the future.

Attachments:

1. Letter requesting opposition to SB 375 from Orange LAFCO
2. Letter by CALAFCO supporting SB 375
3. Legislative Counsel's Digest on SB 375



September 12, 2008

CHAIR
JOHN WITHERS
Director
Irvine Ranch Water District

SUBJECT: LAFCOs and SB 375

VICE CHAIR
SUSAN WILSON
Representative of
General Public

Dear Fellow LAFCO Commissioners:

CHERYL BROTHERS
Councilmember
City of Fountain Valley

I am writing you on behalf of the Orange County Local Agency Formation Commission (LAFCO) regarding SB 375.

BILL CAMPBELL
Supervisor
3rd District

Each of you represents a unique part of California and that diversity is our strength. One size does not fit all or address the diversity of people and agencies that make up California. And you, as a locally elected representative, truly know and understand how to best enhance the life of the citizens you serve. However we believe that your ability to address the needs of your neighbors is being undermined.

PETER HERZOG
Councilmember
City of Lake Forest

JOHN MOORLACH
Supervisor
2nd District

We believe that local control is being undermined by SB 375. The proponents of this bill have called it a "watershed moment", "landmark legislation" and "the most important land use bill" in decades. The many statewide organizations, including CALAFCO, who diligently worked to amend the bill, tell us that it is better now than it was before. That may be true but it is still a problematic bill that erodes local authority.

ARLENE SCHAFFER
Director
Costa Mesa
Sanitary District

ALTERNATE
PAT BATES
Supervisor
5th District

SB 375 places local control in the hands of regional planning organizations and the California Air Resources Board (CARB), a single purpose regulatory agency with no experience in land use planning or in addressing the myriad of issues that communities must face. CARB does not have the same depth of knowledge or understanding of local issues as an area's locally elected representatives.

ALTERNATE
PATSY MARSHALL
Councilmember
City of Buena Park

ALTERNATE
RHONDA MCCUNE
Representative of
General Public

In summary, here is how SB 375 will change your decision making authority. CARB now has the statewide authority to regulate greenhouse gas emissions. SB 375 makes CARB the lead agency to decide how much greenhouse gas must be reduced in each area. CARB will then tell the 17 Metropolitan Planning Organizations (MPOs) what those goals are and each MPO must develop a transportation plan and land use plan, known as a Sustainable Communities Strategy, to meet those goals. The

ALTERNATE
CHARLEY WILSON
Director
Santa Margarita
Water District

JOYCE CROSTHWAITE
Executive Officer

Sustainable Communities Strategy must direct "growth in the right direction" and must be approved by CARB. CARB has the absolute, unilateral authority to reject every Sustainable Communities Strategy even if ALL the local agencies have agreed upon it.

While SB 375 does not technically require agencies to change their land use plans to conform to the Sustainable Communities Strategy, it carries a big stick. State and federal transportation monies would be funneled only to those areas that change their land use plans to conform to the Sustainable Communities Strategy. So you may not be "required" to change your area's development patterns but don't count on getting money to meet your transportation needs!

SB 375 is only the beginning. There is already discussion about additional legislation next year to "implement" the provisions of SB 375. Some have said this is a first step toward regional planning and ultimately regional governance. Centralized land use control and governance should not be supported.

What is most troubling is the haste with which SB 375 was approved. The final version was not put into print until August 13, 2008 and was rushed through the Legislature to meet the August 31 deadline. Eighteen (18) days for a "landmark" piece of legislation with potentially far-reaching consequences prevents the vast majority of Californians and even most elected representatives from knowing the details and impacts of SB 375, much less being able to voice their concerns.

There are two courses of immediate action you can take. First letters requesting a veto of SB 375 should be sent to the Governor immediately. Secondly, we urge you to contact the CALAFCO Board and ask that they re-consider their recent support for SB 375 until there is a full understanding of the consequences of this piece of legislation.

We look forward to working with in the future to support your ability to enhance the unique character of your county and to meet the varied challenges you face without the interference from a centralized control by CARB or other state agencies.


Peter Herzog
Orange County LAFCO Commissioner

2007-08

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8 August 2008

The Honorable Darrell Steinberg
California State Senate
State Capitol, Room 4035
Sacramento, CA 95814

RE: SUPPORT SB 375 (Steinberg)

Dear Senator Steinberg:

The CALAFCO Board of Directors voted today to adopt a support position on your bill, SB 375 as amended. We appreciate the extensive work you have done to bring together the diverse stakeholders and craft a bill that meets nearly all the interests. The Board extends its appreciation to both you and the sponsor for including language that links the sustainable communities strategy with the spheres of influence and boundaries of local agencies as adopted by the local agency formation commissions.

Because the final language was not available at the time of the Board's meeting, its support is predicated on the language contained in the 3 August 'mock up' of the bill as proposed to be amended.

We all recognize that additional legislation will be required in the future for the implementation of the SB 375 provisions. CALAFCO stands ready to work with you and other stakeholders to better integrate local agency formation commissions and its role in the formation, boundary changes, and reorganization of local agencies into the goals and process of your legislation.

Thank you for your work on this important legislation. Please feel free to contact me if I can provide further information.

Yours sincerely,



William Chiat
Executive Director

c: Board of Directors
Tom Adams, League of Conservation Voters

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CHAPTER _____

An act to amend Sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Section 21061.3 of, to add Section 21159.28 to, 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, 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. Certain of these agencies are designated under federal law as metropolitan planning organizations. 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 to maintain guidelines, as specified, for travel demand models used in the development of regional transportation plans by metropolitan planning organizations. The bill would require the commission to consult with various agencies in this regard, and to form an advisory committee and to hold workshops before amending the guidelines.

This bill would also require the regional transportation plan for regions of the state with a metropolitan planning organization to adopt a sustainable communities strategy, as part of its regional transportation plan, 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 metropolitan planning organizations, to provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035 by September 30, 2010, to appoint a Regional Targets Advisory Committee to recommend factors and methodologies for setting those targets, and to update

those targets every 8 years. The bill would require certain transportation planning and programming activities by the metropolitan planning organizations 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 process. To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emission reduction targets, the bill would require affected metropolitan planning organizations to prepare an alternative planning strategy to the sustainable communities strategy showing how the targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The bill would require the State Air Resources Board to review each metropolitan planning organization's sustainable communities strategy and alternative planning strategy to determine whether the strategy, if implemented, would achieve the greenhouse gas emission reduction targets. The bill would require a strategy that is found to be insufficient by the state board to be revised by the metropolitan planning organization, with a minimum requirement that the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy, if implemented, would achieve the targets. The bill would state that the adopted strategies do not regulate the use of land and are not subject to state approval, and that city or county land use policies, including the general plan, are not required to be consistent with the regional transportation plan, which would include the sustainable growth strategy, or the alternative planning strategy. The bill would also require the metropolitan planning organization to hold specified informational meetings in this regard with local elected officials and would require a public participation program with workshops and public hearings for the public, among other things. 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 Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Existing law requires the housing element to

identify the existing and projected housing needs of all economic segments of the community.

Existing law requires the housing element, among other things, to contain a program which sets forth a 5-year schedule of actions of the local government to implement the goals and objectives of the housing element. Existing law requires the program to identify actions that will be undertaken to make sites available to accommodate various housing needs, including, in certain cases, the rezoning of sites to accommodate 100% of the need for housing for very low and low-income households.

This bill would instead require the program to set forth a schedule of actions during the planning period, as defined, and require each action to have a timetable for implementation. The bill would generally require rezoning of certain sites to accommodate certain housing needs within specified times, with an opportunity for an extension time in certain cases, and would require the local government to hold a noticed public hearing within 30 days after the deadline for compliance expires. The bill would, under certain conditions, prohibit a local government that fails to complete a required rezoning within the timeframe required from disapproving a housing development project, as defined, or from taking various other actions that would render the project infeasible, and would allow the project applicant or any interested person to bring an action to enforce these provisions. The bill would also allow a court to compel a local government to complete the rezoning within specified times and to impose sanctions on the local government if the court order or judgment is not carried out, and would provide that in certain cases the local government shall bear the burden of proof relative to actions brought to compel compliance with specified deadlines and requirements.

Existing law requires each local government to review and revise its housing element as frequently as appropriate, but not less than every 5 years.

This bill would extend that time period to 8 years for those local governments that are located within a region covered by a metropolitan planning organization in a nonattainment region or by a metropolitan planning organization or regional transportation planning agency that meets certain requirements. The bill would also provide that, in certain cases, the time period would be reduced to 4 years or other periods, as specified.

The bill would enact other related provisions. Because the bill would impose additional duties on local governments relative to the housing element of the general plan, it would thereby impose a state-mandated local program.

(3) 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 exempt from CEQA a transit priority project, as defined, that meets certain requirements and that is declared by the legislative body of a local jurisdiction to be a sustainable communities project. The transit priority project would need to be consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets. The bill would provide for limited CEQA review of various other transit priority projects.

The bill, with respect to other residential or mixed-use residential projects meeting certain requirements, would exempt the environmental documents for those projects from being required to include certain information regarding growth inducing impacts or impacts from certain vehicle trips.

The bill would also authorize the legislative body of a local jurisdiction to adopt traffic mitigation measures for transit priority projects. The bill would exempt a transit priority project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction has adopted those traffic mitigation measures.

(4) 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.