



1100 K Street  
Suite 101  
Sacramento  
California  
95814

Telephone  
916.327-7500

Facsimile  
916.441.5507

**SB 375 (STEINBERG)**  
**Addressing Greenhouse Gas Emissions from the Transportation Sector**  
**via Regional Transportation Plans**  
CSAC Analysis

---

## SUMMARY

In 2006, the Legislature passed AB 32 —The Global Warming Solutions Act of 2006 — which requires the State of California to reduce greenhouse gas (GHG) emissions to 1990 levels no later than 2020. According to the California Air Resources Board (CARB), in 1990 GHG emissions from automobiles and light trucks were 108 million metric tons, but by 2004 these emissions had increased to 135 million metric tons. The transportation sector contributes over 40 percent of the GHGs throughout the state. Automobiles and light trucks alone contribute almost 30 percent. AB 32 granted CARB broad authority over any “source” of GHG emissions, including the authority to regulate the car and light truck sector.

SB 375, by Senator Darrell Steinberg, provides a means for achieving AB 32 goals from cars and light trucks. The bill is a monumental step forward in the State’s efforts to achieve the global warming goals consistent with AB 32 (Nunez, Chapter 488, Statutes of 2006). Further, the bill aligns three critical policy areas of importance to local government: (1) regional long-range transportation plans and investments; (2) regional allocation of the obligation for cities and counties to zone for housing; and (3) a process to achieve greenhouse gas emissions reductions targets for the transportation sector.

### State, Regional and Local Role in Setting Targets

The new law establishes a process for CARB to develop the GHG emissions reductions targets for each region (as opposed to individual local governments or households). CARB must take certain factors into account before setting the targets, such as considering the likely reductions that will result from actions to improve the fuel efficiency of the statewide fleet and regulations related to the carbon content of fuels (low carbon fuels). CARB must also convene a Regional Targets Advisory Committee (RTAC), which includes representation from the League of California Cities (League), California State Association of Counties (CSAC), metropolitan planning organizations, developers, planning organizations and other stakeholder groups. Furthermore, before setting the targets for each region, CARB is required to exchange technical information with the MPO for that region and with the affected air district. SB 375 provides that the MPO may recommend a target for its region.

### Enhanced Regional Planning Process

SB 375 relies upon regional planning processes already underway in the 17 Metropolitan Planning Organizations (MPOs) in the state to accomplish its objectives. The provisions related to GHG emissions only apply to the MPOs in the state, which includes 37 of the 58 counties. Most notably, the measure requires the MPO to prepare a Sustainable Communities Strategy (SCS) within the Regional Transportation Plan (RTP), which sets forth a vision for growth for the region taking into account the transportation, housing, environmental, and economic needs of the region. The SCS is the blueprint by which the region will meet its GHG emissions reductions target if there is a feasible way to do so.

### **Requires State Interagency Cooperation**

SB 375 indirectly addresses another longstanding issue: single purpose state agencies. The new law will require the cooperation of CARB, the California Transportation Commission (CTC), the California Department of Transportation (Caltrans) and the State Department of Housing and Community Development (HCD). For example, SB 375 takes a first step to counter this problem by connecting the Regional Housing Needs Allocation (RHNA) to the transportation planning process. While these state agencies will be involved in setting the targets and adopting new guidelines, local governments and the MPOs will not only provide input into setting the targets, but will serve as the lead on implementation. Member cities and counties working through their MPOs are tasked with development of the new integrated regional planning and transportation strategies designed to meet the GHG targets.

### **Rural Sustainability Component**

SB 375 does include a provision that applies to all regional transportation planning agencies in the state that recognizes the rural contribution towards reducing GHGs. More specifically, the bill requires regional transportation agencies to consider financial incentives for cities and counties that have resource areas or farmland, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system, farm to market, and interconnectivity transportation needs. An MPO or county transportation agency shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities.

### **CEQA Incentive**

Additionally, SB 375 uses California Environmental Quality Act (CEQA) streamlining as an incentive to encourage residential projects, which help achieve AB 32 goals to reduce GHG emissions. Cities and counties that find the CEQA streamlining provisions attractive have the opportunity (but not the obligation) to align their planning decisions with the decisions of the region.

### **Clarity for Achieving GHG Emissions Reductions from Transportation Sector**

SB 375 provides more certainty for local governments and developers by framing how AB 32's reduction goal from transportation for cars and light trucks will be established. It should be noted, however, that SB 375 does not prevent CARB from adopting additional regulations under its AB 32 authority. However, based on the degree of consensus around SB 375 and early indications from CARB, such actions are not anticipated in the foreseeable future.

A more detailed analysis of SB 375 follows this brief summary.

|   |
|---|
| <p>For more information regarding SB 375 and this analysis, please contact:<br/>DeAnn Baker, Legislative Representative, (916) 327-7500 ext. 509 or <a href="mailto:dbaker@counties.org">dbaker@counties.org</a><br/>Kiana Buss, Legislative Analyst, (916) 327-7500 ext. 566 or <a href="mailto:kbuss@counties.org">kbuss@counties.org</a></p> |
|---|

## **I. ACHIEVING GHG EMISSIONS REDUCTIONS IN REGIONAL TRANSPORTATION PLANS**

Regional transportation plans have long been a part of the transportation planning horizon in California. Federal law requires RTPs to include a land use allocation and requires MPOs that prepare RTPs to make a conformity finding that the RTP is consistent with the requirements of the federal Clean Air Act. The federal law requires that RTPs, among other things, work toward achieving the goals of the Clean Air Act. Some regions have also engaged in a regional “blueprint” process to prepare the land use allocation. State law requires that an RTP include “clear, concise policy guidance to local and state officials” regarding transportation planning.

One important component of the RTP for federal purposes is an estimate of a likely or realistic development pattern for the region over the next 20 to 30 years. This estimate informs the decision-making process for transportation funding. The forecasted growth pattern must be based upon “current planning assumptions” to assure that the air conformity provisions are meaningful. If the federal government determines that the projected growth development pattern is not realistic, it can withhold federal transportation funding.

Like the federal Clean Air Act, SB 375 requires the growth pattern in the SCS to be based upon the “most recent planning assumptions considering local general plans and other factors.” It also requires that the SCS be consistent with the federal regulations that require a realistic growth development pattern.

### **WHAT IS A SUSTAINABLE COMMUNITIES STRATEGY (SCS)?**

An SCS is an enhanced land use element that will be developed within the RTP that sets forth a growth strategy for the region which strives towards achieving GHG emissions reductions, if it is feasible to do so, and help meet California’s climate change goals. Specifically, an SCS will:

- Identify the general location of uses, residential densities, and building intensities within the region;
- Identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan;
- Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region;
- Identify a transportation network to service the transportation needs of the region;
- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region;
- Set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce

GHG emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the GHG emissions reductions target approved by the state board; and

- Quantify the reduction in GHG emissions projected to be achieved by the SCS and, if the SCS does not achieve the targeted reductions in GHG emissions, set forth the difference between the amount that the SCS would reduce GHG emissions and the target for the region.

It is important to emphasize that this development pattern must comply with federal law, which requires that any pattern be based upon “current planning assumptions” that includes the information in local general plans and sphere of influence boundaries.

The SCS will not directly affect local land use decisions. The SCS does not in any way supersede a local general plan, local specific plan, or local zoning. SB 375 does not require that a local general plan, local specific plan, or local zoning be consistent with the SCS.

**WHAT REGIONAL AGENCIES ARE REQUIRED TO DEVELOP AN SCS?**

SB 375 only applies to the 17 federally designated MPOs in the State, which includes 37 counties representing 97.7% of the statewide population. The MPOs and counties are:

| <b>Metropolitan Planning Organization</b>                                      | <b>Counties</b>   |
|--|---|
| Association of Monterey Bay Area Governments                                   | Monterey, San Benito, Santa Cruz  |
| Butte County Association of Governments  | Butte   |
| Council of Fresno County of Governments  | Fresno  |
| Kings County Association of Governments  | Kings   |
| Kern Council of Governments  | Kern  |
| Madera County Transportation Commission  | Madera  |
| Merced County Association of Governments                                       | Merced  |
| Metropolitan Transportation Commission/<br>Association of Bay Area Governments | Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma |
| Sacramento Area Council of Governments   | El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba   |
| San Diego Association of Governments   | San Diego   |
| San Joaquin Council of Governments   | San Joaquin   |
| San Luis Obispo Council of Governments   | San Luis Obispo   |
| Santa Barbara County Association of Governments                                | Santa Barbara   |
| Shasta County Regional Transportation Planning Agency                          | Shasta  |
| Southern California Association of Governments                                 | Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura                         |
| Stanislaus Council of Governments  | Stanislaus  |
| Tulare County Association of Governments                                       | Tulare  |

### **WHAT IS THE ALTERNATIVE PLANNING STRATEGY (APS)?**

If an SCS is unable to achieve the GHG emissions reductions target set by CARB, an MPO will need to prepare an Alternative Planning Strategy (APS) to the SCS showing how the GHG emissions target would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies.

The APS is a separate document from the RTP and therefore does not automatically affect the distribution of transportation funding. However, the APS may be adopted concurrently with the RTP.

The APS must identify the principal impediments to achieving the target within the SCS. The APS must also include a number of measures—such as alternative development patterns, infrastructure, or additional transportation measures or policies—that, taken together, would achieve the regional target. Specifically, an APS would:

- Identify the principal impediments to achieving the target within the SCS;
- May include an alternative development pattern for the region; and
- Describe how the GHG emissions reductions target would be achieved by the APS, and why the development pattern, measures, and policies in the APS are the most practicable choices for achievement of the GHG emissions reductions target.

Like the SCS, the APS does not directly affect or supersede local land use decisions; nor does it require that a local general plan, local specific plan, or local zoning be consistent with the APS.

In addition, SB 375 provides that inconsistency of a project with an APS is not a consideration in determining whether a project may be deemed to have an environmental effect for purposes of the CEQA relief. General consistency with a CARB approved plan—whether it's an SCS or APS—allows projects to qualify for the CEQA streamlining provisions in the bill.

### **WHAT IS CARB'S ROLE IN APPROVING THE SCS OR APS?**

CARB's role in reviewing the SCS or APS is very limited. It can only accept or reject an MPO's determination that the plan would, if implemented, achieve the regional GHG emissions reductions target established by CARB. CARB must complete its review within 60 days. It may not issue conditional approvals or otherwise interfere in any way with local decision-making. It should be noted that SB 375 requires an extended exchange of information between the MPO and CARB about the technical methodology that the region intends to use to estimate the GHG emissions reduction, thus should reduce the chance that CARB will find a particular plan does not achieve the regional target.

### **SETTING THE TARGETS & THE ROLE OF REGIONAL TARGETS ADVISORY COMMITTEE**

CARB, via the Scoping Plan, will assign emissions reductions targets for the 2020 goal on a sector-by-sector basis and lay the framework for achieving that goal. Once the statewide target is set, CARB will set regional targets. SB 375 requires CARB to set regional targets by September 30, 2010 (draft targets will be released to the regions by June 30, 2010).

The target may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by CARB.

SB 375 provides for the creation of the Regional Targets Advisory Committee (RTAC) charged with recommending factors to be considered and methodologies to be used for setting GHG emissions reductions targets for the affected regions. The committee shall be composed of representatives of the MPOs, affected air districts, the League, CSAC, local transportation agencies, and members of the public, including homebuilders, environmental organizations, planning organizations, environmental justice organizations, affordable housing organizations, and others. The committee will make its report to CARB by September 30, 2009.

As mentioned above, prior to setting the target for the region, CARB must also exchange technical information with the MPO and affected air district as well as consider the GHG reductions that will be achieved from improved vehicles emission standards, changes in fuel composition, and other measures that CARB has adopted to reduce GHGs from other emissions sources.

An MPO may also recommend its own target for the region. The MPO must hold at least one public workshop within the region after receipt of the report from the RTAC.

Once set, the targets must be updated every 8 years, which is consistent with the new RHNA planning cycle and two RTP planning cycles in non-attainment areas. CARB can also, at its discretion, revise the targets every four years based on changes in fuel efficiency, use of low carbon fuels, or other factors that it takes into account in setting the targets. Before revising or updating the regional targets, CARB must engage the primary stakeholders (Department of Transportations, MPOs, air districts, and local governments) in a consultative process.

#### **WHAT SB 375 MEANS FOR TRANSPORTATION FUNDING**

SB 375 requires the RTP to be internally consistent much like the internal consistency requirement of a city or county's general plan. This means that the "action element" and the "financial element" of the RTP must be consistent with the SCS, since the SCS is part of the RTP. (The "action element" and the "financial element" of the RTP, however, do not need to be consistent with the APS, since the APS is not part of the RTP.) This means that decisions about the allocation of transportation funds must be consistent with the SCS, its land use plan, and its transportation policies. The land use plan must be based upon the most recent planning assumptions. These are taken in part from local city and county general plans. As cities and counties use the CEQA streamlining in SB 375, their planning assumptions will align more closely with those in the SCS or APS, whichever CARB agrees would achieve the region's GHG target, if implemented.

SB 375 makes explicit the authority that already exists in the law. MPOs already have authority to impose policies or condition transportation funding. The Metropolitan Transportation Commission, for example, does not fund certain types of transit projects unless they serve areas that meet minimum density standards. Even without SB 375, MPOs are taking additional steps in the direction of adopting policies related to reducing GHG emissions within their RTPs because the California Transportation Commission (CTC)

recently amended its RTP Guidelines to require that MPOs consider GHG emissions as part of the RTP process.

SB 375 does not change any current transportation funding formulas, such as county minimums for the State Transportation Improvement Program (STIP).

#### **LOCAL GOVERNMENT AND PUBLIC PARTICIPATION**

SB 375 contains significant and robust processes for local government and public input into the entire process from CARB setting the targets, to the MPOs developing the plans to achieve them. Specific outreach requirements include:

- **Local Elected Official Workshops.** MPOs must conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the SCS and APS, if any. The MPO may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county.
- **General Public Participation.** Each MPO must adopt a public participation plan, for development of the SCS and APS, if any, that includes all of the following:
  - Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process.
  - Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the SCS and the APS.
- **Draft SCS/APS Circulation.** Preparation and circulation of a draft SCS and an APS, if one is prepared, not less than 55 days before adoption of a final RTP.
- **Public Hearings.** At least three public hearings on the draft SCS or APS. If the MPO consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

#### **CREATION OF A SUB-REGIONAL SCS**

SB 375 allows for the creation of a subregional SCS and APS in regions served by multicounty transportation planning agencies. In these regions, a subregional council of governments and the county transportation commission may work together to propose an SCS and APS, if one is prepared, for that subregional area.

#### **EXEMPTION FOR CERTAIN TRANSPORTATION PROJECTS**

Transportation projects funded by the MPO must be consistent with the SCS except that projects programmed for funding on or before December 31, 2011 are not required to be consistent if: (1) they are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program and they are funded pursuant to Section 8879.20 of the Government Code (Proposition 1B—Transportation Bond of 2006); or (2) were specifically listed in a ballot measure prior to December 31, 2008 approving a sales tax measure for transportation purposes. In addition, a transportation sales tax authority need not change funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010.

#### **EXCEPTION FOR THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

SB 375 provides a special set of exceptions for the development of the SCS or APS within the region of the Southern California Association of Governments (SCAG). Here, a subregional council of governments and the county transportation commission may work together to propose a SCS or APS for the subregional area. Although SCAG may still address interregional issues in the SCS or APS, SCAG must include the subregional SCS or APS to the extent that it is consistent with the requirements of an RTP and federal law. SCAG is still responsible for creating an overall public participation plan, ensuring coordination, resolving conflicts and making sure that the plan complies with all applicable legal requirements.

#### **SPECIAL PROVISION FOR THE SAN JOAQUIN VALLEY**

In order to encourage regional cooperation among the eight counties in the San Joaquin Valley, SB 375 specifically encourages two or more counties to work together to develop cooperative policies and develop a multiregional SCS or APS.

#### **RURAL SUSTAINABILITY**

SB 375 includes a rural sustainability element in which an MPO or county transportation agency must consider financial incentives for cities and counties that have resource areas or farmland, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system, farm to market, and interconnectivity transportation needs. An MPO or county transportation agency shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities.

## **II. ALIGNING TRANSPORTATION PLANNING AND REGIONAL HOUSING NEEDS CYCLES**

Before SB 375, federal and state law ignored the fact that in most areas in California, RTPs and regional housing allocation plans are prepared by the same regional organization. Conflicting deadline policies have historically caused a disconnect between regional transportation planning and regional housing policy. SB 375 eliminates this disconnection by requiring the RTP to plan for the Regional Housing Needs Allocation (RHNA) and by requiring the RHNA allocation to be consistent with the projected development pattern used in the RTP.



SB 375 makes two significant changes in this regard. First, cities and counties in the 17 federally designated MPOs (Clean Air Act non-attainment regions) will have an 8-year planning period, which means that the housing element must be updated every 8 years rather than every 5 years.

Second, cities' and counties' RHNA will change because consistency between the regional housing needs allocation plan and the RTP means that the concept of "fair share" will change. Under existing law, the Council of Government (COG) adopts the regional housing allocation plan. The plan distributes to each city and to each county its fair share of the regional housing need. Under SB 375 the plan must be consistent with the development pattern included in the SCS (although each jurisdiction still must receive an allocation).

In trying to encourage a growth development pattern for residential housing that would reduce GHGs, SB 375 had to address the potential conflicts with the existing RHNA and housing element goals and process.

- **Establishing an Eight Year Planning Period in Non-Attainment Regions.** Local governments within a region classified as "non-attainment" under the Clean Air Act and local governments within a region that has elected to adopt an RTP every four years are required to revise their housing element every eight years (instead of the current 5 years). All other local governments remain on the five-year schedule.
- **When the Eight Year Planning Period Starts.** Local governments in non-attainment areas are required to adopt their fifth revision of the housing element no later than 18 months after the adoption of the first RTP adopted after September 30, 2010. Local governments that have elected to adopt the RTP every four years are required to adopt their next housing element 18 months after the adoption of the first RTP following the election. All local governments within San Diego Association of Governments (SANDAG) are required to adopt their fifth revision no more than 5 years from the fourth revision and their sixth revision no later than 18 months after adoption of the first RTP adopted after the fifth revision due date.
- **Timeline for RHNA Allocation and the Housing Element.** In areas where the 8-year planning period applies, the MPO will allocate the RHNA number to the individual cities and counties at approximately the same time it adopts the RTP (which includes the requirement that the SCS must accommodate the 8 year RHNA allocation). Once the city or county receives its RHNA allocation, it has 18 months to prepare its housing element and submit it to the Department of Housing and Community Development (HCD).

All local governments within the jurisdiction of an MPO, except those within the SANDAG, shall adopt its next housing element 18 months after adoption of the first RTP that is adopted after September 30, 2010.

- **Consequence of Failing to Submit a Timely Housing Element.** Local agencies that fail to submit a housing element to HCD within the 18 month timeline fall out of the 8-year housing element cycle and must submit their housing element every four years to HCD. These agencies must still complete their zoning within three years and 120 days

of the deadline for adoption of the housing element or be subject to the sanctions provision described below.

- **Timeline to Re-Zone Sites to Meet RHNA Need.** Each housing element includes an inventory that identifies sites to accommodate the jurisdiction's RHNA. Jurisdictions with an 8-year housing element must rezone sites to accommodate that portion of the RHNA not accommodated in the inventory no later than three years after the date the housing element is adopted or the date that is 90 days after receipt of the department's final comments, whichever is earlier.

Rezoning of the sites includes adoption of minimum density and development standards. A local agency that cannot meet the 3-year requirement may be eligible for a 1-year extension if it can prove that it has completed 75 percent of its zoning requirement and was unable to rezone for one of the following reasons: (1) because of an action or inaction beyond the control of the local agency; (2) because of infrastructure deficiencies due to fiscal or regulatory restraints; or (3) because it must undertake a major revision to its general plan in order to accommodate the housing related policies of an SCS or APS.

- **Scheduling Actions Required by the Housing Element Program.** Current law also requires a housing element to include a program of actions that the local agency intends to undertake during the planning period to encourage that the needs of all economic segments of the community will be met. SB 375 requires local agencies to develop a schedule and timeline for implementation as to when specific actions will have "beneficial impacts" within the planning period.
- **Public Hearing for HCD Annual Report.** Local governments must now hold a public hearing and provide an annual report on the progress made during the year on the programs within the housing element. This requirement to make this report on an official form approved by HCD has been in the law since 1995, but has not been officially applicable because HCD has not yet finalized the form under the administrative rulemaking process.
- **Extension of Anti-NIMBY for Affordable Housing Projects.** SB 375 extends a strict anti-NIMBY law protection (now called the Housing Accountability Act) for housing development projects, which are defined as projects where at least 49 percent of the units are affordable to families of lower- income households. (In most circumstances, a development that meets the 49 percent threshold is a development where 100 percent of the units are affordable to lower-income households.)

The new anti-NIMBY provision applies to an agency's failure to zone a site for low- and very low-income households within the three year time limit (four years if an agency qualifies for an extension). If an affordable project is proposed on that site and the project complies with applicable, objective general plan and zoning standards, including design review standards, then the agency may not disapprove the project, nor require a conditional use permit, planned unit development permit, or other discretionary permit, or impose a condition that would render the project infeasible, unless the project would have a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

- **Potential “Sanctions” for Failing to Meet Zoning Timeline.** Any interested person may bring an action to compel compliance with the zoning deadline and requirements for the new 8-year housing element. If a court finds that a local agency failed to complete the rezoning, the court is required to issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court is required to issue further orders to ensure compliance and may impose sanctions on the local agency, but must consider the equities presented by all affected parties before doing so.
- **Adoption or Self Certification of Housing Element Remains the Same.** Although SB 375 changed the housing element planning period from 5 years to 8 years for some jurisdictions, and added time frames for completing certain actions which must be taken during the planning period, SB 375 did not change either the way in which the housing element is adopted except to the extent that the regional housing allocation plan must be consistent with the SCS. Self-certification of the housing element remains an option (and triggers the three year requirement to zone).

### III. CEQA EXEMPTIONS AND STREAMLINING

The Environmental Impact Report (EIR) prepared for a RTP will consider the impact of the Plan on global warming and the growth-inducing impacts of the Plan. SB 375’s CEQA incentive eliminates the requirement to analyze the impacts of certain residential projects on global warming and the growth-inducing impacts of those projects when the projects achieve the goals of reducing GHG emissions by their proximity to transit or by their consistency with the SCS or APS.

- **Two Types of CEQA Streamlining.** SB 375 includes two types of CEQA streamlining. One is for residential projects that are consistent with the SCS (or APS) that CARB agrees is sufficient to achieve the GHG targets for the region if it was implemented. The other is for Transportation Priority Projects (which also must be consistent with the SCS/APS). Each of these is discussed in more detail below.
- **Projects consistent with the SCS/APS.** A residential or mixed-use project which is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a SCS/APS is not required to reference, describe, or discuss (1) growth-inducing impacts; or (2) project specific or cumulative impacts from cars and light-duty truck trips on global warming or the regional transportation network if the project incorporates the mitigation measures required by an applicable prior environmental document.

In addition, an EIR prepared for this type of project is not required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

- **Three Types of Streamlining for Transit Priority Projects.** SB 375 amends CEQA in three ways for “transit priority projects” (TPPs). A TPP is a new type of project created by SB 375 that must meet three requirements: (1) contains at least 50% residential use (commercial use, if any, must have floor area ratio of not less than 0.75); (2) have a minimum net density of 20 units per acre; and (3) be located within one-half mile of a major transit stop or high quality transit corridor included in a RTP.
  - **Total CEQA Exemption for a Sub-Set of TPPs.** A TPP is exempt from CEQA if it complies with a long list of criteria including the following:
    - Not more than 8 acres and not more than 200 residential units,
    - Can be served by existing utilities,
    - Does not have a significant effect on historical resources,
    - Buildings are 15% more energy efficient than required and buildings and landscaping is designed to achieve 25 percent less water usage,
    - Provides EITHER a minimum of 5 acres per 1,000 residents of open space, OR 20 % housing for moderate income, or 10% housing for low income, or 5% housing for very low income (or in lieu fees sufficient to result in the development of an equivalent amount of units).
  - **TPP: Sustainable Communities Environmental Assessment.** A TPP that does not qualify for a complete exemption from CEQA may nevertheless qualify for a sustainable communities environmental assessment (SCEA) if the project incorporates all feasible mitigation measures, performance standards, or criteria from prior applicable environmental impact reports. A SCEA is similar to a negative declaration in that the lead agency must find that all potentially significant or significant effects of the project have been identified, analyzed and mitigated to a level of insignificance. There are four significant differences:
    - Cumulative effects of the project that have been addressed and mitigated in prior environmental impacts need not be treated as cumulatively considerable.
    - Growth-inducing impacts of the project are not required to be referenced, described or discussed.
    - Project specific or cumulative impacts from cars and light duty truck trips on global warming or the regional transportation network need not be referenced described or discussed.
    - A SCEA is reviewed under the “substantial evidence” standard. The intent of the author was to eliminate the “fair argument” test as the standard of review for a SCEA.

- **TPPS: Traffic Mitigation Measures.** SB 375 also authorizes the adoption of traffic mitigation measures that apply to transit priority projects. These measures may include requirements for the installation of traffic control improvements, street or road improvements, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of transit priority projects. A TPP does not need to comply with any additional mitigation measures for the traffic impacts of that project on streets, highways, intersections, or mass transit if traffic mitigation measures have been adopted.

## **TIMELINE FOR THE IMPLEMENTATION OF SB 375**

|                    |  |
|--------------------|--|
| December 31, 2008  | Projects specifically listed on a local ballot measure prior to this date are exempt from the requirement to be consistent with the SCS.                                     |
| January 1, 2009    | CARB adopts Scoping Plan, which will include the total reduction of carbon in million metric tons from transportation planning.  |
| January 31, 2009   | CARB shall appoint a Regional Targets Advisory Committee (RTAC) to recommend factors to be considered and methodologies to be used for setting reduction targets.            |
| June 1, 2009       | MPOs in attainment areas and Regional Transportation Planning Agencies not within an MPO may elect to opt into the 8 year housing element planning cycle.                    |
| September 30, 2009 | RTAC must report its recommendations to the CARB.  |
| June 30, 2010      | CARB must provide draft targets for each region to review.   |
| September 30, 2010 | CARB must provide each affected region with a GHG emissions reductions target.   |
| October 1, 2010    | Beginning this date, MPOs updating their RTP will begin 8 year housing element planning cycle that includes SCS-APS and alignment for the RHNA process.                      |
| December 31, 2010  | Transportation sales tax authorities need not change allocations approved by voters for categories of projects in a sales tax measure approved by voters prior to this date. |
| December 31, 2011  | Federal Statewide Transportation Improvement Projects programmed before this date are exempt from the requirement to be consistent with the SCS.                             |

## **ACRONYMS**

|          |   |
|----------|---|
| AB 32    | The Global Warming Solutions Act of 2006                |
| APS      | Alternative Planning Strategy                           |
| Caltrans | California Department of Transportation                 |
| CARB     | California Air Resources Board                          |
| CEQA     | California Environmental Quality Act                    |
| CSAC     | California State Association of Counties                |
| CTC      | California Transportation Commissions                   |
| COG      | Council of Government                                   |
| EIR      | Environmental Impact Report                             |
| GHG      | Greenhouse Gas  |
| HCD      | California Housing and Community Development Department |
| League   | League of California Cities                             |
| MPO      | Metropolitan Planning Organization                      |
| RHNA     | Regional Housing Needs Allocation                       |
| RTAC     | Regional Targets Advisory Committee                     |
| RTP      | Regional Transportation Plan                            |
| SANDAG   | San Diego Association of Governments                    |
| SCEA     | Sustainable Communities Environmental Assessment        |
| SCS      | Sustainable Communities Strategy                        |
| TPP      | Transit Priority Project                                |

## CSAC AMENDMENTS

| Requested Amendments to 3/24/08 Version  | Outcome   |
|--|---|
| Provide an exemption for those rural counties outside MPOs that are found in non-attainment due to air transport issues, dust and reasons beyond their control (currently this would apply to Amador, Calaveras, Inyo, Mariposa, Mono, Nevada and Tuolumne). | The measure now only applies to the 17 federally designated MPOs. SEC 1. (e).   |
| Add affected air pollution control districts to the agencies that ARB must consult with when determining the regional targets.   | The bill now requires CARB to exchange technical information with affected air districts in addition to the affected MPO prior to setting the regional target. SEC 4. Section 65080 of Government Code, (b)(2)(A)(ii).  |
| Clarify that the SCS represents the land use element of the RTP.   | The amendments clarify this point in the same section as amended above. SEC 4. Section 65080 of Government Code, (b)(2)(A)(ii).   |
| Provide clarification regarding current practice by regions to comply with Federal Regulations—to ensure that the SCS is developed based on a land use scenario reasonably likely to occur considering local general plans and other factors.                | The measure requires the MPO to use the most recent planning assumptions considering local general plans and other factors. SEC 4. Section 65080 of Government Code, (b)(2)(B).   |
| Expand the countywide approach currently authorized in the bill for SCAG to all multi-county regions in the state.   | SB 375 now includes significant increased outreach and workshop requirements targeted towards local elected officials, amongst other numerous public outreach requirements. Specifically, the measure includes a requirement that MPOs hold a workshop in each county to present the draft SCS plan to local elected officials to ensure that the Boards of Supervisors and City Councils are adequately consulted and solicited for input and recommendations. SEC 4. Section 65080 of Government Code, (b)(2)(D). |
| Include language that grandfather's the sales tax counties' projects and expenditures by category for measures adopted prior to the effective date of the bill.  | The bill now provides that specific projects in sales tax measures passed prior to December 31, 2008 are not subject to the SCS. Further, no sales tax authority is required to change their funding allocations for categorical expenditures for measures passed before December 31, 2010. SEC 4. Section 65080 of Government Code, (b)(2)(L).   |



|  |  |
|--|--|
| <p>Include a rural sustainability element to the RTP/SCS to provide incentives to cities and counties that have designated farmland and resource lands. Also support consideration of financial assistance to counties that contribute towards the SCS goal by adopting city oriented growth policies.</p> | <p>The measure requires MPOs or County Transportation Agencies to consider financial incentives, such as transportation investments for safety, preservation, farm to market and interconnectivity purposes, for cities or counties that have designated protected resource and/or farmland areas. Further, the bill requires MPOs or County Transportation Agencies to consider financial assistance for service responsibilities for the countywide residents in counties that implement policies for growth to occur within their cities. SEC 4. Section 65080 of Government Code, (b)(4)(C).</p> |
| <p>Provide consistency between the SCS and the actual allocation of the regional housing needs to cities and counties with particular emphasis on the designated grow areas.</p>   | <p>Consistency between the RTP/SCS and RHNA is provided for in the amendments. The amendments would change the planning horizon for the housing element from 5-years to 8-years. SEC 7. Section 65583 of Government Code, beginning with (c).</p>  |
| <p>Include local agency and public participation requirements of the MPOs and Regional Transportation Planning Agencies captured under the bill, in particular for the SCS.</p>  | <p>Significant increased public participation requirements were added to the bill throughout. SEC 4. Section 65080 (b)(D)(E) contains numerous provisions.</p>   |