

SB 375 STATUTORY BREAKDOWN

SB 375 amends Government Code sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588. It adds Government Code sections 14522.1, 14522.2, and 65080.01. SB 375 also amends Public Resources Code section 21061.3 and adds Section 21159.28 and Chapter 4.2 (commencing with Section 21155) to Division 13. Below is a brief breakdown and overview of the statutory amendments and additions in SB 375.

Regional Transportation Plan (RTP)

Government Code sections 14522.1 and 14522.2 have added to the duties of the California Transportation Commission (CTC) that it must maintain and disseminate guidelines for travel demand models used in the development of RTPs.

Government Code section 65080 (RTP preparation and adoption) has been amended to include a sustainable communities strategy (SCS) component to the RTP, and requires that the SCS be consistent with the rest of the RTP.

Subdivision (b)(2)(B) the SCS shall set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the GHG emissions from automobiles and light trucks to achieve, if there is a *feasible* way to do so, the greenhouse gas emission reduction targets approved by the CARB. Government Code section 65080.01 has been amended in part to define “feasible” as being “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

Section 65080 sets forth the requirements for a SCS and an alternative planning strategy (APS), if necessary, to achieve GHG emission reduction targets. The APS would not be part of the RTP.

Subdivision (b)(2)(C) allows SCAG to work together with METRO and COGs to propose subregional SCS/APS.

Subdivision (b)(2)(J) provides that the SCS/APS is not a land use regulation. Subdivision (b)(2)(I) provides that review of the SCS/APS by the California Air Resources Board (CARB) shall be limited to acceptance or rejection of SCAG’s determination that the SCS/APS would achieve GHG emission reduction targets if implemented and, at a minimum, SCAG must obtain CARB acceptance that an APS would achieve GHG emission reduction targets if implemented.

Housing Element

Government Code section 65400 (Planning agency duties after adoption of general plan; Investigation; Recommendations; Annual report; Order compelling compliance; Sanctions) has been amended to require in Subdivision (a)(2)(B) that the housing element portion of the annual report include a section describing actions towards completion of the programs and the status of compliance with deadlines in the housing element. The annual report now must be considered at an annual public meeting before the legislative body, and the public shall be allowed to provide oral and written comments. Section 65400 maintains the provision that a motion may be brought against and subject cities to court orders and sanctions for failure to submit the housing element portion of the annual report.

Government Code section 65583 (Housing element components) has been amended to require, instead of a five year schedule of actions, “a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period.”

Section 65583 also includes a new rezoning provision. Subdivision (c)(1)(A) provides that jurisdictions with an eight year housing element must rezone sites, including adoption of minimum density and development standards, to accommodate that portion of the RHNA not accommodated in the inventory no later than the earlier of 1) three years after the housing element is adopted rezoning of those sites, or 2) 90 days after receipt of final comments from HCD. Subdivision (f) provides for a one year extension to complete rezoning under certain circumstances. For a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline for adoption of the housing element.

New Subdivision (g) provides that if a local government fails to complete the rezoning by the deadline provided in subdivision (c)(1)(A), that local government may not disapprove a housing development project (at least 49 percent of the housing units for very low, low-, and moderate-income households), nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project is proposed on that site required to be rezoned and complies with applicable, objective general plan and zoning standards and criteria, including design review standards. The only exception to this is if the local government makes written findings supported by substantial evidence on the record that both: (A) The housing development project would have a specific, adverse impact upon the public health or

safety, and (B) there is no feasible method to satisfactorily mitigate or avoid the adverse impact. The applicant or any interested person may bring an action to enforce this subdivision, and a court may issue an order or judgment compelling compliance within 60 days and issue further compliance orders.

New Subdivision (h) further provides that an action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure (writ).

Government Code section 65584.01 (Determination of existing and projected need for regional housing) was amended to require, for the fourth and subsequent revision of the housing element, development of the relationship between jobs and housing. "The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region."

Government Code section 65584.02 (Alternative process for determining regional housing needs) was amended to delete the former last paragraph of subdivision (a)(2)(C) which read: "The council of governments may include a request to extend the housing element deadline pursuant to Section 65588 to a date not to exceed two years, for the purpose of coordination with the scheduled update of a regional transportation plan pursuant to federal law."

Government Code section 65584.04 (Development of methodology for distributing regional housing need to cities and counties) was amended to add Subdivision (i), stating the legislative intent for housing planning to be coordinated and integrated with the regional transportation plan, requiring the allocation plan to allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy, and requiring that each jurisdiction in the region receive an allocation of units for low- and very low income households.

Government Code section 65587 (Review of compliance) already provided that if a court found that an action of a city which is required to be consistent with the general plan did not comply with the housing element, the city would be required to bring its action into compliance within 60 days. Subdivision (d) has been added to address failure to complete the rezoning requirement added to Section 65583 and provides that a court shall issue an order or judgment compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements, and also issue any necessary further orders for compliance. Any interested person may bring a writ action to compel compliance with the

rezoning requirements. Additionally, an action may be brought pursuant to the notice and accrual provisions of subdivision (d) of Section 65009.

Government Code section 65588 (Review and revision of housing element) is amended to change the housing element revision period to eight years instead of five and sets forth provisions for adoption of the housing element to be consistent with the development of the RTP.

CEQA

Public Resources Code section 21061.3 sets forth the definition of an “infill site” for CEQA purposes and is amended to provide that, in order to be an infill site, a site that has not been previously developed for urban uses must be both (1) immediately adjacent to parcels that are developed with qualified urban uses, or at least have 75 percent of its perimeter adjoin parcels that are developed with qualified urban uses, and the remaining 25 percent of its perimeter adjoin parcels that have previously been developed for qualified urban uses, and (2) have no parcel within it that was created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency. Otherwise, an infill site may be a site that has been previously developed for qualified urban uses, deleting the requirement that the site has not been developed for urban uses and no parcel within the site has been created within the past 10 years.

Chapter 4.2, Implementation of the Sustainable Communities Strategy, is added to the Public Resources Code, beginning with Section 21155, and creates special streamlining provisions for transit priority projects (TPPs).

Section 21155 provides that TPPs must (1) contain at least 50 percent residential use (any commercial use must have a floor area ratio of not less than 0.75); (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor, which are further defined.

Section 21155.1 provides that if a legislative body finds after a public hearing that a TPP meets specific requirements, it shall be declared a sustainable communities project and shall be exempt from CEQA.

Section 21155.2 provides that a TPP that does not meet the requirements for full exemption may qualify for a sustainable communities environmental assessment (SCEA) if the project incorporates all feasible mitigation measures, performance standards, or criteria from prior applicable EIRs, or it may qualify for special EIR review.

Section 21155.3 provides that a legislative body may adopt, after a public hearing, traffic mitigation measures for TPPs, including requirements for traffic control improvements, street or road improvements, and contributions to road improvement or transit funds. If such mitigation measures have been adopted, the TPP is not required to comply with any additional mitigation measures for the traffic impacts on streets, highways, intersections, or mass transit.

Public Resources Code section 21159.28 is added to provide that a residential or mixed-use residential project that is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either a CARB approved SCS or APS, and that incorporates the mitigation measures required by an applicable prior environmental document, is not required to reference, describe, or discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.