

BILL: AB 686 (Santiago, D-Los Angeles)
Amended April 27, 2017
Amended April 06, 2017
Introduced February 15, 2017

SUBJECT: AB 686 would require a public agency to administer its programs and activities in a manner that affirmatively furthers fair housing.

STATUS: Pending on Assembly Floor
Passed Assembly Appropriations Committee 12-5
Passed Assembly Judiciary Committee 8-2
Passed Assembly Housing and Community Development Committee 5-2

SUMMARY AS OF MAY 30, 2017:

AB 686 (Santiago, D-Los Angeles) would establish an affirmatively furthering fair housing (AFFH) obligation within the California Fair Employment and Housing Act (FEHA), thus requiring public agencies in California to administer their programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing. "Public agency" is defined to include a regional transportation agency. "Programs and activities relating to housing and community development" is defined to include any action, inaction, policy, regulation, program, practice, decision, activity or investment by the public agency that affects where a person may live, a person's ability to remain in their current housing, and the degree of access that person, based on where they live, has to opportunity, including education, jobs, health care, social services, features of a healthy environment including clean water, air, and secure and affordable housing and community conditions. "Meaningful actions" is defined to mean significant actions that are designed and can be reasonably expected to achieve materially positive change that affirmatively furthers fair housing, and must be actions that eliminate or materially ameliorate within a reasonable period of time the impact of significant barriers that restrict access to opportunity, and must be commensurate with the scale of those barriers.

If a public agency fails to meet its AFFH obligation, then that failure would be considered unlawful under the FEHA. The director of the California Department of Fair Employment and Housing may exercise their discretion to investigate, or to bring a civil action, based on a verified complaint that alleges a violation of the duty to AFFH.

AB 686 would also require any public agency required to adopt a housing element or sustainable communities strategy (SCS) to include an analysis of the barriers that restrict access to fair housing opportunities, and a commitment to specific meaningful actions to affirmatively further fair housing.

EFFECTS ON ORANGE COUNTY:

Under existing law, the California counterpart to the federal Fair Housing Act, FEHA, prohibits housing discrimination, but does not explicitly include an AFFH provision. With the addition of the AFFH requirements, and the applicability to transportation agencies,

the requirement is broad enough to include many funding and planning decisions undertaken by agencies such as the Orange County Transportation Authority (OCTA). It is ambiguous which activities OCTA currently undertakes would definitively be included under this requirement, creating a risk that the argument can be made that there is an AFFH requirement on almost any activity. This creates a new legal loophole to challenge transportation planning, programming and construction activities, even when the transportation agency has no jurisdiction over housing and land use decisions. This requirement may also potentially be used to challenge funding allocated to transportation agencies if it is deemed to impact fair housing availability, or access to jobs and other resources. This could potentially conflict with other state goals, including those related to jobs creation, the environment and disadvantaged communities.

AB 686 would require the SCS developed by the Southern California Association of Governments (SCAG) pursuant to SB 375 (Chapter 728, Statutes of 2008), to include “an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing.” However, SCAG has no land use authority to commit to “specific meaningful actions” for overcoming identified barriers such as the inadequate supply of affordable housing, zoning restrictions, segregated housing, development limitations, and housing that is inaccessible to persons with disabilities. SCAG could recommend general strategies to local jurisdictions, but that is the only authority they have with regards to land use.

AB 686 is sponsored by the National Housing Law Project, Public Advocates and the Western Center on Law and Poverty. Stakeholders opposing the bill include the California Association of Councils of Government, Southern California Association of Governments, and the Riverside County Transportation Commission.

An oppose position is consistent with the OCTA 2017-18 State Legislative Platform’s principles to “Oppose unfunded mandates for transportation agencies, transit providers, and local governments in providing transportation improvements and services.”

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN ASSEMBLY APRIL 27, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

AMENDED IN ASSEMBLY MARCH 15, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 686

Introduced by Assembly Member Santiago
(Coauthor: Assembly Member Gloria)
(Coauthor: Senator Hertzberg)

February 15, 2017

An act to amend Sections 12955, 65080, and 65583 of, and to add Section 12958 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 686, as amended, Santiago. Housing discrimination: affirmatively further fair housing.

Existing federal law, the federal Fair Housing Act, requires, among other things, certain federal executive departments and agencies to administer their programs relating to housing and urban development in a manner affirmatively to further the purposes of the federal act. Existing federal law requires specified state and local agencies that contract with, or receive funding from, specified federal agencies to certify that they will affirmatively further fair housing by completing an assessment of fair housing and submitting that assessment to the United States Department of Housing and Urban Development.

Existing law, the California Fair Employment and Housing Act, generally prohibits housing discrimination with respect to the personal characteristics of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin,

ancestry, familial status, source of income, disability, or genetic information. Existing law also prohibits the discrimination through public or private land use practices, decisions, and authorizations because of one of those personal characteristics. Existing law establishes the Department of Fair Employment and Housing in the Business, Consumer Services, and Housing Agency, with the powers and duties to, among other things, receive, investigate, and conciliate complaints relating to housing discrimination. Existing law requires the Director of Fair Employment and Housing to investigate verified complaints that allege a violation of the act, subject to certain procedures and requirements, and requires the director, if attempts at mediation or other forms of dispute resolution do not eliminate a violation of the act, to file a civil action on behalf of the aggrieved person, as provided.

This bill would require a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and to not take any action that is inconsistent with this obligation. The bill would make it unlawful under the California Fair Employment and Housing Act for a public agency to fail to meet its obligation to affirmatively further fair housing, and would provide that failure would constitute housing discrimination under the act. The bill would authorize the Director of Fair Employment and Housing to exercise ~~his or her~~ discretion to investigate, or to bring a civil action, based on a verified complaint that alleges a violation of these provisions.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that is required to contain specified information and ~~analysis~~. *analysis, including a program setting forth a schedule of actions during the planning period that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element, as provided.*

Existing law requires certain transportation planning activities on the part of 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 requires metropolitan planning organizations to adopt a sustainable communities strategy or alternative planning strategy, subject to specified requirements, as part of a regional transportation plan.

The bill would require a public agency that completes or revises an assessment of fair housing pursuant to specified provisions of the federal Fair Housing Act and its implementing regulations to submit a copy of that assessment or revised assessment to the department. The bill would require the department to post any assessment received pursuant to these provisions on its Internet Web site within a reasonable period of time. This bill would require a public agency that is required to adopt a housing element or a sustainable communities strategy to include in that element or strategy an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing. The bill would authorize a public agency of that nature that also is required to complete or revise an assessment of fair housing pursuant to the federal act, as described above, to include relevant portions of that assessment or revised assessment in its housing element or sustainable communities strategy, as applicable. *The bill would also require that the above-described program for achieving the goals and objectives of the housing element affirmatively further fair housing pursuant to provisions added by this bill.*

The bill would define the term “public agency” *for these purposes* to mean any state or local agency, regional transportation agency, or council of governments. By imposing additional duties upon a local government, this bill would impose a state-mandated local program.

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 the statutory provisions noted above.

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 12955 of the Government Code is
- 2 amended to read:
- 3 12955. It shall be unlawful:
- 4 (a) For the owner of any housing accommodation to discriminate
- 5 against or harass any person because of the race, color, religion,

1 sex, gender, gender identity, gender expression, sexual orientation,
2 marital status, national origin, ancestry, familial status, source of
3 income, disability, or genetic information of that person.

4 (b) For the owner of any housing accommodation to make or
5 to cause to be made any written or oral inquiry concerning the
6 race, color, religion, sex, gender, gender identity, gender
7 expression, sexual orientation, marital status, national origin,
8 ancestry, familial status, disability, or genetic information of any
9 person seeking to purchase, rent, or lease any housing
10 accommodation.

11 (c) For any person to make, print, or publish, or cause to be
12 made, printed, or published any notice, statement, or advertisement,
13 with respect to the sale or rental of a housing accommodation that
14 indicates any preference, limitation, or discrimination based on
15 race, color, religion, sex, gender, gender identity, gender
16 expression, sexual orientation, marital status, national origin,
17 ancestry, familial status, source of income, disability, or genetic
18 information or an intention to make that preference, limitation, or
19 discrimination.

20 (d) For any person subject to the provisions of Section 51 of
21 the Civil Code, as that section applies to housing accommodations,
22 to discriminate against any person on the basis of sex, gender,
23 gender identity, gender expression, sexual orientation, color, race,
24 religion, ancestry, national origin, familial status, marital status,
25 disability, genetic information, source of income, or on any other
26 basis prohibited by that section. Selection preferences based on
27 age, imposed in connection with a federally approved housing
28 program, do not constitute age discrimination in housing.

29 (e) For any person, bank, mortgage company or other financial
30 institution that provides financial assistance for the purchase,
31 organization, or construction of any housing accommodation to
32 discriminate against any person or group of persons because of
33 the race, color, religion, sex, gender, gender identity, gender
34 expression, sexual orientation, marital status, national origin,
35 ancestry, familial status, source of income, disability, or genetic
36 information in the terms, conditions, or privileges relating to the
37 obtaining or use of that financial assistance.

38 (f) For any owner of housing accommodations to harass, evict,
39 or otherwise discriminate against any person in the sale or rental
40 of housing accommodations when the owner's dominant purpose

1 is retaliation against a person who has opposed practices unlawful
2 under this section, informed law enforcement agencies of practices
3 believed unlawful under this section, has testified or assisted in
4 any proceeding under this part, or has aided or encouraged a person
5 to exercise or enjoy the rights secured by this part. Nothing herein
6 is intended to cause or permit the delay of an unlawful detainer
7 action.

8 (g) For any person to aid, abet, incite, compel, or coerce the
9 doing of any of the acts or practices declared unlawful in this
10 section, or to attempt to do so.

11 (h) For any person, for profit, to induce any person to sell or
12 rent any dwelling by representations regarding the entry or
13 prospective entry into the neighborhood of a person or persons of
14 a particular race, color, religion, sex, gender, gender identity,
15 gender expression, sexual orientation, marital status, ancestry,
16 disability, genetic information, source of income, familial status,
17 or national origin.

18 (i) For any person or other organization or entity whose business
19 involves real estate-related transactions to discriminate against
20 any person in making available a transaction, or in the terms and
21 conditions of a transaction, because of race, color, religion, sex,
22 gender, gender identity, gender expression, sexual orientation,
23 marital status, national origin, ancestry, source of income, familial
24 status, disability, or genetic information.

25 (j) To deny a person access to, or membership or participation
26 in, a multiple listing service, real estate brokerage organization,
27 or other service because of race, color, religion, sex, gender, gender
28 identity, gender expression, sexual orientation, marital status,
29 ancestry, disability, genetic information, familial status, source of
30 income, or national origin.

31 (k) To otherwise make unavailable or deny a dwelling based
32 on discrimination because of race, color, religion, sex, gender,
33 gender identity, gender expression, sexual orientation, familial
34 status, source of income, disability, genetic information, or national
35 origin.

36 (l) To discriminate through public or private land use practices,
37 decisions, and authorizations because of race, color, religion, sex,
38 gender, gender identity, gender expression, sexual orientation,
39 familial status, marital status, disability, genetic information,
40 national origin, source of income, or ancestry. Discrimination

1 includes, but is not limited to, restrictive covenants, zoning laws,
2 denials of use permits, and other actions authorized under the
3 Planning and Zoning Law (Title 7 (commencing with Section
4 65000)), that make housing opportunities unavailable.

5 Discrimination under this subdivision also includes the existence
6 of a restrictive covenant, regardless of whether accompanied by a
7 statement that the restrictive covenant is repealed or void.

8 (m) As used in this section, “race, color, religion, sex, gender,
9 gender identity, gender expression, sexual orientation, marital
10 status, national origin, ancestry, familial status, source of income,
11 disability, or genetic information,” includes a perception that the
12 person has any of those characteristics or that the person is
13 associated with a person who has, or is perceived to have, any of
14 those characteristics.

15 (n) To use a financial or income standard in the rental of housing
16 that fails to account for the aggregate income of persons residing
17 together or proposing to reside together on the same basis as the
18 aggregate income of married persons residing together or proposing
19 to reside together.

20 (o) In instances where there is a government rent subsidy, to
21 use a financial or income standard in assessing eligibility for the
22 rental of housing that is not based on the portion of the rent to be
23 paid by the tenant.

24 (p) (1) For the purposes of this section, “source of income”
25 means lawful, verifiable income paid directly to a tenant or paid
26 to a representative of a tenant. For the purposes of this section, a
27 landlord is not considered a representative of a tenant.

28 (2) For the purposes of this section, it shall not constitute
29 discrimination based on source of income to make a written or
30 oral inquiry concerning the level or source of income.

31 (q) For a public agency to fail to comply with its obligation to
32 affirmatively further fair housing pursuant to Section 12958. A
33 public agency’s failure to affirmatively further fair housing shall
34 constitute a discriminatory housing practice. Notwithstanding
35 Section 12980, subdivision (a) of Section 12981, or Section
36 12981.1, the director may exercise ~~his or her~~ discretion to
37 investigate, or to bring a civil action, based on a verified complaint
38 that alleges a violation of this subdivision.

39 SEC. 2. Section 12958 is added to the Government Code, to
40 read:

1 12958. (a) Notwithstanding any other law, a public agency
2 shall administer its programs and activities relating to housing and
3 community development in a manner to affirmatively further fair
4 housing, and shall not take any action that is inconsistent with this
5 obligation.

6 (b) For purposes of this section, the following terms have the
7 following meanings:

8 (1) "Affirmatively furthering fair housing" means taking
9 meaningful actions, in addition to combating discrimination, that:
10 overcome patterns of segregation; address disparities in housing
11 needs and in access to opportunity based on characteristics
12 protected by this part; promote fair housing choice, both within
13 and outside of areas of concentrated poverty; foster inclusive
14 communities free from barriers that restrict access to opportunity
15 based on characteristics protected by this part; and that transform
16 racially and ethnically concentrated areas of poverty into areas of
17 opportunity, while protecting existing residents from displacement.

18 (2) "Barriers that restrict access to opportunity" means barriers
19 that are specific to the type of neighborhood or jurisdiction, such
20 as whether it is an area of high opportunity, a gentrifying
21 neighborhood, or a segregated area of concentrated poverty, and
22 may include: inadequate supply of affordable housing or poorly
23 maintained affordable housing; segregated housing; housing that
24 is inaccessible to persons with disabilities; zoning restrictions,
25 development limitations, and other actions, inactions, policies,
26 regulations, programs, practices, decisions or investments that
27 restrict access to high-quality education, transportation, jobs, health
28 care, recreation, features of a healthy environment including clean
29 water and air, safe neighborhoods, social services, cultural
30 institutions, and other opportunities based on characteristics
31 protected by this part.

32 (3) "Local agency" means a city or county, including a charter
33 city or county, a city and county, a special district, a redevelopment
34 successor agency, a joint powers authority, a public housing
35 authority created pursuant to the Housing Authorities Law (Chapter
36 1 (Commencing with Section 34200) of Part 2 of Division 24 of
37 the Health and Safety Code), a public housing agency, as defined
38 in the United States Housing Act of 1937 (codified at 42 U.S.C.
39 Sec. 1437 and following), as amended, or any political subdivision
40 of the state not otherwise listed.

1 (4) “Meaningful actions” means significant actions that are
2 designed and can be reasonably expected to achieve materially
3 positive change that affirmatively furthers fair housing. Meaningful
4 actions must eliminate or materially ameliorate within a reasonable
5 period of time the impact of significant barriers that restrict access
6 to opportunity, and must be commensurate with the scale of those
7 barriers.

8 (5) “Programs and activities relating to housing and community
9 development” means any action, inaction, policy, regulation,
10 program, practice, decision, activity, or investment by the public
11 agency that affects where a person may live, a person’s ability to
12 remain in their current housing, and the degree of access that
13 person, based on where they live, has to opportunity, including
14 education, jobs, health care, social services, features of a healthy
15 environment including clean water, air, and secure and affordable
16 housing and community conditions.

17 (6) “Public agency” means any state or local agency, regional
18 transportation agency, or council of governments.

19 (7) “State agency” means every state office, officer, department,
20 division, bureau, board, and commission, including the California
21 State University.

22 (c) (1) Any public agency required to adopt a housing element,
23 pursuant to Article 10.6 (commencing with Section 65580) of
24 Chapter 3 of Division 1 of Title 7, or a sustainable communities
25 strategy, pursuant to Section 65080, shall include in that element
26 or strategy an analysis of barriers that restrict access to opportunity
27 and a commitment to specific meaningful actions to affirmatively
28 further fair housing.

29 (2) If the public agency completes or revises an assessment of
30 fair housing pursuant to Section 3608(d) and (e)(5) of Title 42 of
31 the United States Code, and any regulation implementing that
32 requirement, including Subpart A (commencing with Section
33 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal
34 Regulations, as published on July 16, 2015, on page 42272 of
35 Volume 80 of the Federal Register, the public agency may
36 incorporate relevant portions of that assessment of fair housing or
37 revised assessment of fair housing into its housing element or
38 sustainable communities strategy to fulfill the requirement in
39 paragraph (1). *Incorporation of an assessment of fair housing or*
40 *revised assessment of fair housing into a public agency’s housing*

element or sustainable communities strategy pursuant to this paragraph shall not create a presumption that the assessment of fair housing or revised assessment of fair housing meets the requirements of this section, Section 65080, or Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(3) A public agency that completes or revises an assessment of fair housing pursuant to Section 3608(d) and (e)(5) of Title 42 of the United States Code, and any regulation implementing that requirement, including Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published on July 16, 2015, on page 42272 of Volume 80 of the Federal Register, shall submit a copy of that assessment or revised assessment to the department at the same time that agency submits the assessment or the revised assessment to the United States Department of Housing and Urban Development. The department shall post the assessment on its Internet Web site within a reasonable period of time.

SEC. 3. Section 65080 of the Government Code is amended to read:

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

(b) The regional transportation plan shall be an internally consistent document and shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy

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

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

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

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

15 (i) Single occupant vehicle.

16 (ii) Multiple occupant vehicle or carpool.

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

18 (iv) Walking.

19 (v) Bicycling.

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

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

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

31 (2) A sustainable communities strategy prepared by each
32 metropolitan planning organization as follows:

33 (A) No later than September 30, 2010, the State Air Resources
34 Board shall provide each affected region with greenhouse gas
35 emission reduction targets for the automobile and light truck sector
36 for 2020 and 2035, respectively.

37 (i) No later than January 31, 2009, the state board shall appoint
38 a Regional Targets Advisory Committee to recommend factors to
39 be considered and methodologies to be used for setting greenhouse
40 gas emission reduction targets for the affected regions. The

1 committee shall be composed of representatives of the metropolitan
2 planning organizations, affected air districts, the League of
3 California Cities, the California State Association of Counties,
4 local transportation agencies, and members of the public, including
5 homebuilders, environmental organizations, planning organizations,
6 environmental justice organizations, affordable housing
7 organizations, and others. The advisory committee shall transmit
8 a report with its recommendations to the state board no later than
9 September 30, 2009. In recommending factors to be considered
10 and methodologies to be used, the advisory committee may
11 consider any relevant issues, including, but not limited to, data
12 needs, modeling techniques, growth forecasts, the impacts of
13 regional jobs-housing balance on interregional travel and
14 greenhouse gas emissions, economic and demographic trends, the
15 magnitude of greenhouse gas reduction benefits from a variety of
16 land use and transportation strategies, and appropriate methods to
17 describe regional targets and to monitor performance in attaining
18 those targets. The state board shall consider the report prior to
19 setting the targets.

20 (ii) Prior to setting the targets for a region, the state board shall
21 exchange technical information with the metropolitan planning
22 organization and the affected air district. The metropolitan planning
23 organization may recommend a target for the region. The
24 metropolitan planning organization shall hold at least one public
25 workshop within the region after receipt of the report from the
26 advisory committee. The state board shall release draft targets for
27 each region no later than June 30, 2010.

28 (iii) In establishing these targets, the state board shall take into
29 account greenhouse gas emission reductions that will be achieved
30 by improved vehicle emission standards, changes in fuel
31 composition, and other measures it has approved that will reduce
32 greenhouse gas emissions in the affected regions, and prospective
33 measures the state board plans to adopt to reduce greenhouse gas
34 emissions from other greenhouse gas emission sources as that term
35 is defined in subdivision (i) of Section 38505 of the Health and
36 Safety Code and consistent with the regulations promulgated
37 pursuant to the California Global Warming Solutions Act of 2006
38 (Division 25.5 (commencing with Section 38500) of the Health
39 and Safety Code).

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii). The state board shall exchange technical information with the Department of Transportation, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.

(v) The greenhouse gas emission reduction targets may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region, (ii) 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 taking into account net migration into the region, population growth, household formation and employment growth, (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, (iv) identify a transportation network to service the transportation needs of the region, (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01, (vi) consider the state housing goals specified in Sections 65580 and 65581, (vii) 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 greenhouse gas 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 state board, (viii)

1 allow the regional transportation plan to comply with Section 176
2 of the federal Clean Air Act (42 U.S.C. Sec. 7506), and (ix) analyze
3 barriers that restrict access to opportunity and include a
4 commitment to specific meaningful actions to affirmatively further
5 fair housing pursuant to Section 12958.

6 (C) (i) Within the jurisdiction of the Metropolitan
7 Transportation Commission, as defined by Section 66502, the
8 Association of Bay Area Governments shall be responsible for
9 clauses (i), (ii), (iii), (v), and (vi) of subparagraph (B), the
10 Metropolitan Transportation Commission shall be responsible for
11 clauses (iv) and (viii) of subparagraph (B); and the Association of
12 Bay Area Governments and the Metropolitan Transportation
13 Commission shall jointly be responsible for clause (vii) of
14 subparagraph (B).

15 (ii) Within the jurisdiction of the Tahoe Regional Planning
16 Agency, as defined in Sections 66800 and 66801, the Tahoe
17 Metropolitan Planning Organization shall use the Regional Plan
18 for the Lake Tahoe Region as the sustainable community strategy,
19 provided that it complies with clauses (vii) and (viii) of
20 subparagraph (B).

21 (D) In the region served by the multicounty transportation
22 planning agency described in Section 130004 of the Public Utilities
23 Code, a subregional council of governments and the county
24 transportation commission may work together to propose the
25 sustainable communities strategy and an alternative planning
26 strategy, if one is prepared pursuant to subparagraph (I), for that
27 subregional area. The metropolitan planning organization may
28 adopt a framework for a subregional sustainable communities
29 strategy or a subregional alternative planning strategy to address
30 the intraregional land use, transportation, economic, air quality,
31 and climate policy relationships. The metropolitan planning
32 organization shall include the subregional sustainable communities
33 strategy for that subregion in the regional sustainable communities
34 strategy to the extent consistent with this section and federal law
35 and approve the subregional alternative planning strategy, if one
36 is prepared pursuant to subparagraph (I), for that subregional area
37 to the extent consistent with this section. The metropolitan planning
38 organization shall develop overall guidelines, create public
39 participation plans pursuant to subparagraph (F), ensure
40 coordination, resolve conflicts, make sure that the overall plan

1 complies with applicable legal requirements, and adopt the plan
2 for the region.

3 (E) The metropolitan planning organization shall conduct at
4 least two informational meetings in each county within the region
5 for members of the board of supervisors and city councils on the
6 sustainable communities strategy and alternative planning strategy,
7 if any. The metropolitan planning organization may conduct only
8 one informational meeting if it is attended by representatives of
9 the county board of supervisors and city council members
10 representing a majority of the cities representing a majority of the
11 population in the incorporated areas of that county. Notice of the
12 meeting or meetings shall be sent to the clerk of the board of
13 supervisors and to each city clerk. The purpose of the meeting or
14 meetings shall be to discuss the sustainable communities strategy
15 and the alternative planning strategy, if any, including the key land
16 use and planning assumptions to the members of the board of
17 supervisors and the city council members in that county and to
18 solicit and consider their input and recommendations.

19 (F) Each metropolitan planning organization shall adopt a public
20 participation plan, for development of the sustainable communities
21 strategy and an alternative planning strategy, if any, that includes
22 all of the following:

23 (i) Outreach efforts to encourage the active participation of a
24 broad range of stakeholder groups in the planning process,
25 consistent with the agency's adopted Federal Public Participation
26 Plan, including, but not limited to, affordable housing advocates,
27 transportation advocates, neighborhood and community groups,
28 environmental advocates, home builder representatives,
29 broad-based business organizations, landowners, commercial
30 property interests, and homeowner associations.

31 (ii) Consultation with congestion management agencies,
32 transportation agencies, and transportation commissions.

33 (iii) Workshops throughout the region to provide the public with
34 the information and tools necessary to provide a clear
35 understanding of the issues and policy choices. At least one
36 workshop shall be held in each county in the region. For counties
37 with a population greater than 500,000, at least three workshops
38 shall be held. Each workshop, to the extent practicable, shall
39 include urban simulation computer modeling to create visual

1 representations of the sustainable communities strategy and the
2 alternative planning strategy.

3 (iv) Preparation and circulation of a draft sustainable
4 communities strategy and an alternative planning strategy, if one
5 is prepared, not less than 55 days before adoption of a final regional
6 transportation plan.

7 (v) At least three public hearings on the draft sustainable
8 communities strategy in the regional transportation plan and
9 alternative planning strategy, if one is prepared. If the metropolitan
10 transportation organization consists of a single county, at least two
11 public hearings shall be held. To the maximum extent feasible, the
12 hearings shall be in different parts of the region to maximize the
13 opportunity for participation by members of the public throughout
14 the region.

15 (vi) A process for enabling members of the public to provide a
16 single request to receive notices, information, and updates.

17 (G) In preparing a sustainable communities strategy, the
18 metropolitan planning organization shall consider spheres of
19 influence that have been adopted by the local agency formation
20 commissions within its region.

21 (H) Before adopting a sustainable communities strategy, the
22 metropolitan planning organization shall quantify the reduction in
23 greenhouse gas emissions projected to be achieved by the
24 sustainable communities strategy and set forth the difference, if
25 any, between the amount of that reduction and the target for the
26 region established by the state board.

27 (I) If the sustainable communities strategy, prepared in
28 compliance with subparagraph (B) or (D), is unable to reduce
29 greenhouse gas emissions to achieve the greenhouse gas emission
30 reduction targets established by the state board, the metropolitan
31 planning organization shall prepare an alternative planning strategy
32 to the sustainable communities strategy showing how those
33 greenhouse gas emission targets would be achieved through
34 alternative development patterns, infrastructure, or additional
35 transportation measures or policies. The alternative planning
36 strategy shall be a separate document from the regional
37 transportation plan, but it may be adopted concurrently with the
38 regional transportation plan. In preparing the alternative planning
39 strategy, the metropolitan planning organization:

1 (i) Shall identify the principal impediments to achieving the
2 targets within the sustainable communities strategy.

3 (ii) May include an alternative development pattern for the
4 region pursuant to subparagraphs (B) to (G), inclusive.

5 (iii) Shall describe how the greenhouse gas emission reduction
6 targets would be achieved by the alternative planning strategy, and
7 why the development pattern, measures, and policies in the
8 alternative planning strategy are the most practicable choices for
9 achievement of the greenhouse gas emission reduction targets.

10 (iv) An alternative development pattern set forth in the
11 alternative planning strategy shall comply with Part 450 of Title
12 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,
13 except to the extent that compliance will prevent achievement of
14 the greenhouse gas emission reduction targets approved by the
15 state board.

16 (v) For purposes of the California Environmental Quality Act
17 (Division 13 (commencing with Section 21000) of the Public
18 Resources Code), an alternative planning strategy shall not
19 constitute a land use plan, policy, or regulation, and the
20 inconsistency of a project with an alternative planning strategy
21 shall not be a consideration in determining whether a project may
22 have an environmental effect.

23 (J) (i) Before starting the public participation process adopted
24 pursuant to subparagraph (F), the metropolitan planning
25 organization shall submit a description to the state board of the
26 technical methodology it intends to use to estimate the greenhouse
27 gas emissions from its sustainable communities strategy and, if
28 appropriate, its alternative planning strategy. The state board shall
29 respond to the metropolitan planning organization in a timely
30 manner with written comments about the technical methodology,
31 including specifically describing any aspects of that methodology
32 it concludes will not yield accurate estimates of greenhouse gas
33 emissions, and suggested remedies. The metropolitan planning
34 organization is encouraged to work with the state board until the
35 state board concludes that the technical methodology operates
36 accurately.

37 (ii) After adoption, a metropolitan planning organization shall
38 submit a sustainable communities strategy or an alternative
39 planning strategy, if one has been adopted, to the state board for
40 review, including the quantification of the greenhouse gas emission

1 reductions the strategy would achieve and a description of the
2 technical methodology used to obtain that result. Review by the
3 state board shall be limited to acceptance or rejection of the
4 metropolitan planning organization's determination that the strategy
5 submitted would, if implemented, achieve the greenhouse gas
6 emission reduction targets established by the state board. The state
7 board shall complete its review within 60 days.

8 (iii) If the state board determines that the strategy submitted
9 would not, if implemented, achieve the greenhouse gas emission
10 reduction targets, the metropolitan planning organization shall
11 revise its strategy or adopt an alternative planning strategy, if not
12 previously adopted, and submit the strategy for review pursuant
13 to clause (ii). At a minimum, the metropolitan planning
14 organization must obtain state board acceptance that an alternative
15 planning strategy would, if implemented, achieve the greenhouse
16 gas emission reduction targets established for that region by the
17 state board.

18 (K) Neither a sustainable communities strategy nor an alternative
19 planning strategy regulates the use of land, nor, except as provided
20 by subparagraph (J), shall either one be subject to any state
21 approval. Nothing in a sustainable communities strategy shall be
22 interpreted as superseding the exercise of the land use authority
23 of cities and counties within the region. Nothing in this section
24 shall be interpreted to limit the state board's authority under any
25 other provision of law. Nothing in this section shall be interpreted
26 to authorize the abrogation of any vested right whether created by
27 statute or by common law. Nothing in this section shall require a
28 city's or county's land use policies and regulations, including its
29 general plan, to be consistent with the regional transportation plan
30 or an alternative planning strategy. Nothing in this section requires
31 a metropolitan planning organization to approve a sustainable
32 communities strategy that would be inconsistent with Part 450 of
33 Title 23 of, or Part 93 of Title 40 of, the Code of Federal
34 Regulations and any administrative guidance under those
35 regulations. Nothing in this section relieves a public or private
36 entity or any person from compliance with any other local, state,
37 or federal law.

38 (L) Nothing in this section requires projects programmed for
39 funding on or before December 31, 2011, to be subject to the
40 provisions of this paragraph if they (i) are contained in the 2007

1 or 2009 Federal Statewide Transportation Improvement Program,
2 (ii) are funded pursuant to Chapter 12.49 (commencing with
3 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically
4 listed in a ballot measure prior to December 31, 2008, approving
5 a sales tax increase for transportation projects. Nothing in this
6 section shall require a transportation sales tax authority to change
7 the funding allocations approved by the voters for categories of
8 transportation projects in a sales tax measure adopted prior to
9 December 31, 2010. For purposes of this subparagraph, a
10 transportation sales tax authority is a district, as defined in Section
11 7252 of the Revenue and Taxation Code, that is authorized to
12 impose a sales tax for transportation purposes.

13 (M) A metropolitan planning organization, or a regional
14 transportation planning agency not within a metropolitan planning
15 organization, that is required to adopt a regional transportation
16 plan not less than every five years, may elect to adopt the plan not
17 less than every four years. This election shall be made by the board
18 of directors of the metropolitan planning organization or regional
19 transportation planning agency no later than June 1, 2009, or
20 thereafter 54 months prior to the statutory deadline for the adoption
21 of housing elements for the local jurisdictions within the region,
22 after a public hearing at which comments are accepted from
23 members of the public and representatives of cities and counties
24 within the region covered by the metropolitan planning
25 organization or regional transportation planning agency. Notice
26 of the public hearing shall be given to the general public and by
27 mail to cities and counties within the region no later than 30 days
28 prior to the date of the public hearing. Notice of election shall be
29 promptly given to the Department of Housing and Community
30 Development. The metropolitan planning organization or the
31 regional transportation planning agency shall complete its next
32 regional transportation plan within three years of the notice of
33 election.

34 (N) Two or more of the metropolitan planning organizations
35 for Fresno County, Kern County, Kings County, Madera County,
36 Merced County, San Joaquin County, Stanislaus County, and
37 Tulare County may work together to develop and adopt
38 multiregional goals and policies that may address interregional
39 land use, transportation, economic, air quality, and climate
40 relationships. The participating metropolitan planning organizations

1 may also develop a multiregional sustainable communities strategy,
2 to the extent consistent with federal law, or an alternative planning
3 strategy for adoption by the metropolitan planning organizations.
4 Each participating metropolitan planning organization shall
5 consider any adopted multiregional goals and policies in the
6 development of a sustainable communities strategy and, if
7 applicable, an alternative planning strategy for its region.

8 (3) An action element that describes the programs and actions
9 necessary to implement the plan and assigns implementation
10 responsibilities. The action element may describe all transportation
11 projects proposed for development during the 20-year or greater
12 life of the plan. The action element shall consider congestion
13 management programming activities carried out within the region.

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

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

- 31 (i) State highway expansion.
- 32 (ii) State highway rehabilitation, maintenance, and operations.
- 33 (iii) Local road and street expansion.
- 34 (iv) Local road and street rehabilitation, maintenance, and
35 operation.
- 36 (v) Mass transit, commuter rail, and intercity rail expansion.
- 37 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
38 maintenance, and operations.
- 39 (vii) Pedestrian and bicycle facilities.
- 40 (viii) Environmental enhancements and mitigation.

1 (ix) Research and planning.

2 (x) Other categories.

3 (C) The metropolitan planning organization or county
4 transportation agency, whichever entity is appropriate, shall
5 consider financial incentives for cities and counties that have
6 resource areas or farmland, as defined in Section 65080.01, for
7 the purposes of, for example, transportation investments for the
8 preservation and safety of the city street or county road system
9 and farm-to-market and interconnectivity transportation needs.
10 The metropolitan planning organization or county transportation
11 agency, whichever entity is appropriate, shall also consider
12 financial assistance for counties to address countywide service
13 responsibilities in counties that contribute toward the greenhouse
14 gas emission reduction targets by implementing policies for growth
15 to occur within their cities.

16 (c) Each transportation planning agency may also include other
17 factors of local significance as an element of the regional
18 transportation plan, including, but not limited to, issues of mobility
19 for specific sectors of the community, including, but not limited
20 to, senior citizens.

21 (d) Except as otherwise provided in this subdivision, each
22 transportation planning agency shall adopt and submit, every four
23 years, an updated regional transportation plan to the California
24 Transportation Commission and the Department of Transportation.
25 A transportation planning agency located in a federally designated
26 air quality attainment area or that does not contain an urbanized
27 area may at its option adopt and submit a regional transportation
28 plan every five years. When applicable, the plan shall be consistent
29 with federal planning and programming requirements and shall
30 conform to the regional transportation plan guidelines adopted by
31 the California Transportation Commission. Before adoption of the
32 regional transportation plan, a public hearing shall be held after
33 the giving of notice of the hearing by publication in the affected
34 county or counties pursuant to Section 6061.

35 SEC. 4. Section 65583 of the Government Code is amended
36 to read:

37 65583. The housing element shall consist of an identification
38 and analysis of existing and projected housing needs and a
39 statement of goals, policies, quantified objectives, financial
40 resources, and scheduled programs for the preservation,

1 improvement, and development of housing. The housing element
2 shall identify adequate sites for housing, including rental housing,
3 factory-built housing, mobilehomes, and emergency shelters, and
4 shall make adequate provision for the existing and projected needs
5 of all economic segments of the community. The element shall
6 contain all of the following:

7 (a) An assessment of housing needs and an inventory of
8 resources and constraints relevant to the meeting of these needs.
9 The assessment and inventory shall include all of the following:

10 (1) An analysis of population and employment trends and
11 documentation of projections and a quantification of the locality's
12 existing and projected housing needs for all income levels,
13 including extremely low income households, as defined in
14 subdivision (b) of Section 50105 and Section 50106 of the Health
15 and Safety Code. These existing and projected needs shall include
16 the locality's share of the regional housing need in accordance
17 with Section 65584. Local agencies shall calculate the subset of
18 very low income households allotted under Section 65584 that
19 qualify as extremely low income households. The local agency
20 may either use available census data to calculate the percentage
21 of very low income households that qualify as extremely low
22 income households or presume that 50 percent of the very low
23 income households qualify as extremely low income households.
24 The number of extremely low income households and very low
25 income households shall equal the jurisdiction's allocation of very
26 low income households pursuant to Section 65584.

27 (2) An analysis and documentation of household characteristics,
28 including level of payment compared to ability to pay, housing
29 characteristics, including overcrowding, and housing stock
30 condition.

31 (3) An inventory of land suitable for residential development,
32 including vacant sites and sites having potential for redevelopment,
33 and an analysis of the relationship of zoning and public facilities
34 and services to these sites.

35 (4) (A) The identification of a zone or zones where emergency
36 shelters are allowed as a permitted use without a conditional use
37 or other discretionary permit. The identified zone or zones shall
38 include sufficient capacity to accommodate the need for emergency
39 shelter identified in paragraph (7), except that each local
40 government shall identify a zone or zones that can accommodate

1 at least one year-round emergency shelter. If the local government
2 cannot identify a zone or zones with sufficient capacity, the local
3 government shall include a program to amend its zoning ordinance
4 to meet the requirements of this paragraph within one year of the
5 adoption of the housing element. The local government may
6 identify additional zones where emergency shelters are permitted
7 with a conditional use permit. The local government shall also
8 demonstrate that existing or proposed permit processing,
9 development, and management standards are objective and
10 encourage and facilitate the development of, or conversion to,
11 emergency shelters. Emergency shelters may only be subject to
12 those development and management standards that apply to
13 residential or commercial development within the same zone except
14 that a local government may apply written, objective standards
15 that include all of the following:

16 (i) The maximum number of beds or persons permitted to be
17 served nightly by the facility.

18 (ii) Off-street parking based upon demonstrated need, provided
19 that the standards do not require more parking for emergency
20 shelters than for other residential or commercial uses within the
21 same zone.

22 (iii) The size and location of exterior and interior onsite waiting
23 and client intake areas.

24 (iv) The provision of onsite management.

25 (v) The proximity to other emergency shelters, provided that
26 emergency shelters are not required to be more than 300 feet apart.

27 (vi) The length of stay.

28 (vii) Lighting.

29 (viii) Security during hours that the emergency shelter is in
30 operation.

31 (B) The permit processing, development, and management
32 standards applied under this paragraph shall not be deemed to be
33 discretionary acts within the meaning of the California
34 Environmental Quality Act (Division 13 (commencing with Section
35 21000) of the Public Resources Code).

36 (C) A local government that can demonstrate to the satisfaction
37 of the department the existence of one or more emergency shelters
38 either within its jurisdiction or pursuant to a multijurisdictional
39 agreement that can accommodate that jurisdiction's need for
40 emergency shelter identified in paragraph (7) may comply with

1 the zoning requirements of subparagraph (A) by identifying a zone
2 or zones where new emergency shelters are allowed with a
3 conditional use permit.

4 (D) A local government with an existing ordinance or ordinances
5 that comply with this paragraph shall not be required to take
6 additional action to identify zones for emergency shelters. The
7 housing element must only describe how existing ordinances,
8 policies, and standards are consistent with the requirements of this
9 paragraph.

10 (5) An analysis of potential and actual governmental constraints
11 upon the maintenance, improvement, or development of housing
12 for all income levels, including the types of housing identified in
13 paragraph (1) of subdivision (c), and for persons with disabilities
14 as identified in the analysis pursuant to paragraph (7), including
15 land use controls, building codes and their enforcement, site
16 improvements, fees and other exactions required of developers,
17 and local processing and permit procedures. The analysis shall
18 also demonstrate local efforts to remove governmental constraints
19 that hinder the locality from meeting its share of the regional
20 housing need in accordance with Section 65584 and from meeting
21 the need for housing for persons with disabilities, supportive
22 housing, transitional housing, and emergency shelters identified
23 pursuant to paragraph (7). Transitional housing and supportive
24 housing shall be considered a residential use of property, and shall
25 be subject only to those restrictions that apply to other residential
26 dwellings of the same type in the same zone.

27 (6) An analysis of potential and actual nongovernmental
28 constraints upon the maintenance, improvement, or development
29 of housing for all income levels, including the availability of
30 financing, the price of land, and the cost of construction.

31 (7) An analysis of any special housing needs, such as those of
32 the elderly; persons with disabilities, including a developmental
33 disability, as defined in Section 4512 of the Welfare and
34 Institutions Code; large families; farmworkers; families with female
35 heads of households; and families and persons in need of
36 emergency shelter. The need for emergency shelter shall be
37 assessed based on annual and seasonal need. The need for
38 emergency shelter may be reduced by the number of supportive
39 housing units that are identified in an adopted 10-year plan to end
40 chronic homelessness and that are either vacant or for which

1 funding has been identified to allow construction during the
2 planning period. An analysis of special housing needs by a city or
3 county may include an analysis of the need for frequent user
4 coordinated care housing services.

5 (8) An analysis of opportunities for energy conservation with
6 respect to residential development. Cities and counties are
7 encouraged to include weatherization and energy efficiency
8 improvements as part of publicly subsidized housing rehabilitation
9 projects. This may include energy efficiency measures that
10 encompass the building envelope, its heating and cooling systems,
11 and its electrical system.

12 (9) An analysis of existing assisted housing developments that
13 are eligible to change from low-income housing uses during the
14 next 10 years due to termination of subsidy contracts, mortgage
15 prepayment, or expiration of restrictions on use. "Assisted housing
16 developments," for the purpose of this section, shall mean
17 multifamily rental housing that receives governmental assistance
18 under federal programs listed in subdivision (a) of Section
19 65863.10, state and local multifamily revenue bond programs,
20 local redevelopment programs, the federal Community
21 Development Block Grant Program, or local in-lieu fees. "Assisted
22 housing developments" shall also include multifamily rental units
23 that were developed pursuant to a local inclusionary housing
24 program or used to qualify for a density bonus pursuant to Section
25 65916.

26 (A) The analysis shall include a listing of each development by
27 project name and address, the type of governmental assistance
28 received, the earliest possible date of change from low-income
29 use, and the total number of elderly and nonelderly units that could
30 be lost from the locality's low-income housing stock in each year
31 during the 10-year period. For purposes of state and federally
32 funded projects, the analysis required by this subparagraph need
33 only contain information available on a statewide basis.

34 (B) The analysis shall estimate the total cost of producing new
35 rental housing that is comparable in size and rent levels, to replace
36 the units that could change from low-income use, and an estimated
37 cost of preserving the assisted housing developments. This cost
38 analysis for replacement housing may be done aggregately for
39 each five-year period and does not have to contain a
40 project-by-project cost estimate.

1 (C) The analysis shall identify public and private nonprofit
2 corporations known to the local government that have legal and
3 managerial capacity to acquire and manage these housing
4 developments.

5 (D) The analysis shall identify and consider the use of all federal,
6 state, and local financing and subsidy programs that can be used
7 to preserve, for lower income households, the assisted housing
8 developments, identified in this paragraph, including, but not
9 limited to, federal Community Development Block Grant Program
10 funds, tax increment funds received by a redevelopment agency
11 of the community, and administrative fees received by a housing
12 authority operating within the community. In considering the use
13 of these financing and subsidy programs, the analysis shall identify
14 the amounts of funds under each available program that have not
15 been legally obligated for other purposes and that could be
16 available for use in preserving assisted housing developments.

17 (10) An analysis of barriers that restrict access to opportunity
18 and a commitment to specific meaningful actions to affirmatively
19 further fair housing pursuant to Section 12958.

20 (b) (1) A statement of the community's goals, quantified
21 objectives, and policies relative to the maintenance, preservation,
22 improvement, and development of housing.

23 (2) It is recognized that the total housing needs identified
24 pursuant to subdivision (a) may exceed available resources and
25 the community's ability to satisfy this need within the content of
26 the general plan requirements outlined in Article 5 (commencing
27 with Section 65300). Under these circumstances, the quantified
28 objectives need not be identical to the total housing needs. The
29 quantified objectives shall establish the maximum number of
30 housing units by income category, including extremely low income,
31 that can be constructed, rehabilitated, and conserved over a
32 five-year time period.

33 (c) A program that sets forth a schedule of actions during the
34 planning period, each with a timeline for implementation, that may
35 recognize that certain programs are ongoing, such that there will
36 be beneficial impacts of the programs within the planning period,
37 that the local government is undertaking or intends to undertake
38 to implement the policies and achieve the goals and objectives of
39 the housing element through the administration of land use and
40 development controls, the provision of regulatory concessions and

1 incentives, the utilization of appropriate federal and state financing
2 and subsidy programs when available, and the utilization of moneys
3 in a low- and moderate-income housing fund of an agency if the
4 locality has established a redevelopment project area pursuant to
5 the Community Redevelopment Law (Division 24 (commencing
6 with Section 33000) of the Health and Safety Code). In order to
7 make adequate provision for the housing needs of all economic
8 segments of the community, the program shall do all of the
9 following:

10 (1) Identify actions that will be taken to make sites available
11 during the planning period with appropriate zoning and
12 development standards and with services and facilities to
13 accommodate that portion of the city's or county's share of the
14 regional housing need for each income level that could not be
15 accommodated on sites identified in the inventory completed
16 pursuant to paragraph (3) of subdivision (a) without rezoning, and
17 to comply with the requirements of Section 65584.09. Sites shall
18 be identified as needed to facilitate and encourage the development
19 of a variety of types of housing for all income levels, including
20 multifamily rental housing, factory-built housing, mobilehomes,
21 housing for agricultural employees, supportive housing,
22 single-room occupancy units, emergency shelters, and transitional
23 housing.

24 (A) Where the inventory of sites, pursuant to paragraph (3) of
25 subdivision (a), does not identify adequate sites to accommodate
26 the need for groups of all household income levels pursuant to
27 Section 65584, rezoning of those sites, including adoption of
28 minimum density and development standards, for jurisdictions
29 with an eight-year housing element planning period pursuant to
30 Section 65588, shall be completed no later than three years after
31 either the date the housing element is adopted pursuant to
32 subdivision (f) of Section 65585 or the date that is 90 days after
33 receipt of comments from the department pursuant to subdivision
34 (b) of Section 65585, whichever is earlier, unless the deadline is
35 extended pursuant to subdivision (f). Notwithstanding the
36 foregoing, for a local government that fails to adopt a housing
37 element within 120 days of the statutory deadline in Section 65588
38 for adoption of the housing element, rezoning of those sites,
39 including adoption of minimum density and development standards,
40 shall be completed no later than three years and 120 days from the

1 statutory deadline in Section 65588 for adoption of the housing
2 element.

3 (B) Where the inventory of sites, pursuant to paragraph (3) of
4 subdivision (a), does not identify adequate sites to accommodate
5 the need for groups of all household income levels pursuant to
6 Section 65584, the program shall identify sites that can be
7 developed for housing within the planning period pursuant to
8 subdivision (h) of Section 65583.2. The identification of sites shall
9 include all components specified in subdivision (b) of Section
10 65583.2.

11 (C) Where the inventory of sites pursuant to paragraph (3) of
12 subdivision (a) does not identify adequate sites to accommodate
13 the need for farmworker housing, the program shall provide for
14 sufficient sites to meet the need with zoning that permits
15 farmworker housing use by right, including density and
16 development standards that could accommodate and facilitate the
17 feasibility of the development of farmworker housing for low- and
18 very low income households.

19 (2) Assist in the development of adequate housing to meet the
20 needs of extremely low, very low, low-, and moderate-income
21 households.

22 (3) Address and, where appropriate and legally possible, remove
23 governmental constraints to the maintenance, improvement, and
24 development of housing, including housing for all income levels
25 and housing for persons with disabilities. The program shall remove
26 constraints to, and provide reasonable accommodations for housing
27 designed for, intended for occupancy by, or with supportive
28 services for, persons with disabilities.

29 (4) Conserve and improve the condition of the existing
30 affordable housing stock, which may include addressing ways to
31 mitigate the loss of dwelling units demolished by public or private
32 action.

33 (5) Promote housing opportunities for all persons regardless of
34 race, religion, sex, marital status, ancestry, national origin, color,
35 familial status, or ~~disability~~. *disability, and affirmatively further*
36 *fair housing pursuant to Section 12958.*

37 (6) Preserve for lower income households the assisted housing
38 developments identified pursuant to paragraph (9) of subdivision
39 (a). The program for preservation of the assisted housing
40 developments shall utilize, to the extent necessary, all available

1 federal, state, and local financing and subsidy programs identified
2 in paragraph (9) of subdivision (a), except where a community has
3 other urgent needs for which alternative funding sources are not
4 available. The program may include strategies that involve local
5 regulation and technical assistance.

6 (7) Include an identification of the agencies and officials
7 responsible for the implementation of the various actions and the
8 means by which consistency will be achieved with other general
9 plan elements and community goals.

10 (8) Include a diligent effort by the local government to achieve
11 public participation of all economic segments of the community
12 in the development of the housing element, and the program shall
13 describe this effort.

14 (d) (1) A local government may satisfy all or part of its
15 requirement to identify a zone or zones suitable for the
16 development of emergency shelters pursuant to paragraph (4) of
17 subdivision (a) by adopting and implementing a multijurisdictional
18 agreement, with a maximum of two other adjacent communities,
19 that requires the participating jurisdictions to develop at least one
20 year-round emergency shelter within two years of the beginning
21 of the planning period.

22 (2) The agreement shall allocate a portion of the new shelter
23 capacity to each jurisdiction as credit toward its emergency shelter
24 need, and each jurisdiction shall describe how the capacity was
25 allocated as part of its housing element.

26 (3) Each member jurisdiction of a multijurisdictional agreement
27 shall describe in its housing element all of the following:

28 (A) How the joint facility will meet the jurisdiction's emergency
29 shelter need.

30 (B) The jurisdiction's contribution to the facility for both the
31 development and ongoing operation and management of the
32 facility.

33 (C) The amount and source of the funding that the jurisdiction
34 contributes to the facility.

35 (4) The aggregate capacity claimed by the participating
36 jurisdictions in their housing elements shall not exceed the actual
37 capacity of the shelter.

38 (e) Except as otherwise provided in this article, amendments to
39 this article that alter the required content of a housing element
40 shall apply to both of the following:

1 (1) A housing element or housing element amendment prepared
2 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
3 when a city, county, or city and county submits a draft to the
4 department for review pursuant to Section 65585 more than 90
5 days after the effective date of the amendment to this section.

6 (2) Any housing element or housing element amendment
7 prepared pursuant to subdivision (e) of Section 65588 or Section
8 65584.02, when the city, county, or city and county fails to submit
9 the first draft to the department before the due date specified in
10 Section 65588 or 65584.02.

11 (f) The deadline for completing required rezoning pursuant to
12 subparagraph (A) of paragraph (1) of subdivision (c) shall be
13 extended by one year if the local government has completed the
14 rezoning at densities sufficient to accommodate at least 75 percent
15 of the units for low- and very low income households and if the
16 legislative body at the conclusion of a public hearing determines,
17 based upon substantial evidence, that any of the following
18 circumstances exist:

19 (1) The local government has been unable to complete the
20 rezoning because of the action or inaction beyond the control of
21 the local government of any other state, federal, or local agency.

22 (2) The local government is unable to complete the rezoning
23 because of infrastructure deficiencies due to fiscal or regulatory
24 constraints.

25 (3) The local government must undertake a major revision to
26 its general plan in order to accommodate the housing-related
27 policies of a sustainable communities strategy or an alternative
28 planning strategy adopted pursuant to Section 65080.

29 The resolution and the findings shall be transmitted to the
30 department together with a detailed budget and schedule for
31 preparation and adoption of the required rezonings, including plans
32 for citizen participation and expected interim action. The schedule
33 shall provide for adoption of the required rezoning within one year
34 of the adoption of the resolution.

35 (g) (1) If a local government fails to complete the rezoning by
36 the deadline provided in subparagraph (A) of paragraph (1) of
37 subdivision (c), as it may be extended pursuant to subdivision (f),
38 except as provided in paragraph (2), a local government may not
39 disapprove a housing development project, nor require a
40 conditional use permit, planned unit development permit, or other

1 locally imposed discretionary permit, or impose a condition that
2 would render the project infeasible, if the housing development
3 project (A) is proposed to be located on a site required to be
4 rezoned pursuant to the program action required by that
5 subparagraph and (B) complies with applicable, objective general
6 plan and zoning standards and criteria, including design review
7 standards, described in the program action required by that
8 subparagraph. Any subdivision of sites shall be subject to the
9 Subdivision Map Act (Division 2 (commencing with Section
10 66410)). Design review shall not constitute a “project” for purposes
11 of Division 13 (commencing with Section 21000) of the Public
12 Resources Code.

13 (2) A local government may disapprove a housing development
14 described in paragraph (1) if it makes written findings supported
15 by substantial evidence on the record that both of the following
16 conditions exist:

17 (A) The housing development project would have a specific,
18 adverse impact upon the public health or safety unless the project
19 is disapproved or approved upon the condition that the project be
20 developed at a lower density. As used in this paragraph, a “specific,
21 adverse impact” means a significant, quantifiable, direct, and
22 unavoidable impact, based on objective, identified written public
23 health or safety standards, policies, or conditions as they existed
24 on the date the application was deemed complete.

25 (B) There is no feasible method to satisfactorily mitigate or
26 avoid the adverse impact identified pursuant to paragraph (1), other
27 than the disapproval of the housing development project or the
28 approval of the project upon the condition that it be developed at
29 a lower density.

30 (3) The applicant or any interested person may bring an action
31 to enforce this subdivision. If a court finds that the local agency
32 disapproved a project or conditioned its approval in violation of
33 this subdivision, the court shall issue an order or judgment
34 compelling compliance within 60 days. The court shall retain
35 jurisdiction to ensure that its order or judgment is carried out. If
36 the court determines that its order or judgment has not been carried
37 out within 60 days, the court may issue further orders to ensure
38 that the purposes and policies of this subdivision are fulfilled. In
39 any such action, the city, county, or city and county shall bear the
40 burden of proof.

(4) For purposes of this subdivision, “housing development project” means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CORRECTIONS:
Heading—Line 3.