

MEMO

DATE: October 2, 2008

TO: Executive/Administration Committee
Regional Council

FROM: Sharon Neely, Director of Legislation
(213) 236-1992
neely@scag.ca.gov

SUBJECT: SB 375 (Steinberg)- Greenhouse Gas Emissions Reduction: Integrated Planning

The Governor has signed the bill. Senate Bill 375 seeks to reduce greenhouse gas emissions (GHG) from the automobile and light truck sector by providing for regionally based GHG reduction targets, integrated transportation and housing planning. SB 375 directs the state Air Resources Board to set greenhouse gas reduction targets for each of the state's 17 regional areas by 2010. The bill instructs metropolitan areas to meld housing and transportation plans into a single document through the development of a Sustainable Communities Strategy (SCS) incorporated into the Regional Transportation Plan (RTP), and, if necessary a separate Alternative Planning Strategy (APS) which may be adopted concurrently with the RTP, and then to demonstrate that either SCS or APS, if implemented, can achieve the regional GHG emission reduction targets. It offers incentives for implementation of the SCS through transit priority projects, including relief from certain CEQA review for some infill projects and developments near transit stops.

SB 375-Metropolitan Planning Organization (MPO) Participation & Responsibilities- The bill prescribes the following primary areas of participation and responsibility for the MPO related to the process for setting the GHG reduction targets, developing the SCS/APS, and syncing the Regional Housing Needs Assessment (RHNA) update with the RTP. These areas of responsibilities include:

(1) In consultation with the State Air Resources Board (ARB), develop regional greenhouse gas emission reduction targets for 2020 and 2035. The bill creates a Regional Targets Advisory Committee (RTAC) which will include some large MPOs and local transportation commissions, and will make recommendations to ARB for the factors/methodologies used to set GHG emission reduction targets from cars and light trucks on a regional basis. The RTAC shall be appointed by ARB no later than January 31, 2009, and will report its recommendations to ARB by September 30, 2009. ARB shall issue a draft regional GHG emissions target reduction by 6/30/10, and a final regional GHG emission target by 9/30/10. MPOs are given options to recommend regional GHG emission reduction targets, and will have opportunity to provide input to ARB during this 90 day period;

(2) In the SCAG region, directs the MPO role in a collaborative process to create the SCS development guidelines. SB 375 provides for existing sub-regions to work with local transportation commissions to prepare the SCS that will be incorporated by SCAG into a regional SCS. The bill requires the MPO to develop overall guidelines, ensure coordination, develop public participation plans, resolve conflicts, and make sure the overall plan complies with legal requirements. Preparation of the SCS by sub-regions is not required.

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SB 375 requires the MPO to direct an extensive public participation process to include broad representation of transportation, housing, and environmental stakeholders in developing the SCS. The bill requires the MPO to hold 1 public workshop after receiving the final RTAC report (9/30/09) containing factors and methodology for consideration by ARB to set the GHG targets, and 16 public workshops (3 in each of the 5 counties with populations over 500,000 and 1 for Imperial County) throughout the development of the SCS/APS. Additionally, once the SCS is released with the RTP for review and comment, the bill directs the MPO to conduct between 6-12 informational meetings for elected officials (2 in each county or 1 per county if attended by representatives of the county board of supervisors and city council members representing a majority of the population in the incorporated area of that county, and 3 public hearings.

(3) Aligning the Regional Housing Needs Allocation (RHNA) planning process with the regional transportation planning process. The bill adjusts the timeline for Housing Element updates so that the RHNA is performed with every-other RTP, i.e., synced together on an 8-year cycle. The intent is for the next SCAG RHNA to occur in 2016, however, current provisions do not provide for this and a technical amendment is needed. SCAG has alerted the author's office and has submitted language to clarify this provision in next year's technical clean-up legislation.

The following list of dates relates to the MPO responsibilities in establishing the GHG reduction targets and developing the SCS/APS as described above.

SB 375 – Chronology of Important Dates/Milestones

- 1/01/09 Bill becomes law if signed by Governor;
- 1/31/09 ARB appoints Regional Target Advisory Committee (RTAC);
- 9/30/09 RTAC transmits factors/methodology to establish GHG reduction targets to ARB
- Fall '09 MPO shall hold one public workshop upon release of RTAC report
- 6/30/10 MPO may recommend regional target to ARB (optional);
- 6/30/10 Workshops may be required to set the recommended targets
- 6/30/10 ARB shall issue draft regional GHG reduction targets;
- 9/30/10 ARB shall issue final regional GHG reduction targets (MPO may comment between release of draft and final targets);
- 10/01/10 – 12/31/11 Develop SCS/APS. MPO to hold 16 public participation workshops throughout region;

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- Jan 2012 Release RTP with SCS (and APS if necessary), minimum 55 days for review and comment of SCS before RTP adoption;
- Jan 2012 – Apr 2012 MPO to hold 6-12 informational meetings for elected officials and 3 public hearings;
- Apr 2012 MPO adopt RTP with SCS and APS (if necessary)
- June 2012 ARB reviews and acceptance of SCS/APS (within 60 days)

Other SB 375 Issues- It is important to note that the bill does not specifically require that the SCS meet the regional targets set forth by the ARB. If the SCS does not meet the regional target, the MPO must either revise the SCS to meet the target, or adopt an APS that meets the target. In either case the ARB can only approve or disapprove either plan – it cannot make a conditional or partial approval. If the SCS does not meet the target, the MPO must make a finding and state the reasons why it does not. However, if an APS is prepared, it is required to meet the regional targets and the MPO is directed to work on the APS until it is accepted by ARB.

There are no funding provisions in SB 375. Another bill by Senator Steinberg, SB 732, sets forth a process for funding the work required by SB 375 from planning monies provided by Proposition 84. It is anticipated, too, that funding will be provided through next year's budget process. Should SB 375 become law, SCAG recommends actively working with other stakeholders to address funding needs and technical corrections issues.

It should be noted that the last RC meeting, there was discussion concerning local land use authority being impacted by the legislation. Staff clarified that the amended bill makes it clear that cities retain all land use authority. Section 4 of the bill, amending Gov. Code §65080(J), is as follows (underline added for emphasis):

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

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Next Steps

Governor's approval message included the need for clean-up legislation to address the following:

- Provide exemptions for voter-approved Proposition 1B Transportation Projects;
- Expand CEQA streamlining to other projects that are consistent with a Sustainable Communities Strategy;
- Eliminate schedule conflicts with housing element updates and Regional Transportation Plans (RTPs);
- Mitigation for impacts to the State Highway System.

Staff will work with other stakeholders in the region to address the above clarifications as well as the issues previously discussed by the Regional Council in the proposed clean-up legislation. Staff will provide have a report for the November meeting to discuss the timeline provided by SB 375 and seek input from the Regional Council on the implementation process moving forward.