

# **Fact Sheet for SB 375**

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## FACT SHEET FOR SB 375

### 1. What is SB 375?

In 2006, the Legislature passed AB 32 — the Global Warming Solutions Act of 2006 — which requires California to reduce greenhouse gas (GHG) emissions to 1990 levels no later than 2020 and to 80% below 1990 levels by 2050. The transportation sector contributes over 40% of GHGs, with automobiles and light trucks alone contributing almost 30%. AB 32 granted the California Air Resources Board (CARB) broad authority over GHG emissions, including regulation of the car and light truck sector.

SB 375 (Steinberg), provides a means for achieving AB 32 goals for cars and light trucks. Reducing emissions from cars and light trucks has three major components. The first involves greater fuel efficiency from new vehicles as regulated at the federal level. The second involves reducing the carbon content of fuels, regulated by both federal and state government. The third component is changes in the growth pattern that reduce overall driving, to be implemented at the regional and local levels. SB 375 addresses only the third component of this process.

Under the law, CARB has until September 30, 2010 – to provide a greenhouse-gas emissions reduction target for cars and light trucks to 18 California Metropolitan Planning Organizations (MPOs). The bill requires MPOs to create either a Sustainable Communities Strategy or an Alternative Planning Strategy. These “sustainable communities plans” must conform achieve the emission reduction targets generated by CARB. The bill would then provide transportation funding incentives and shortened review -- or exemptions -- under CEQA for applicable projects. There would also be better connection to the state’s Regional Housing Needs Allocation process, which will operate on an eight-year rotation (rather than five-years) to better match the federally-driven Regional Transportation Plan process.

These and other issues related to SB 375 are discussed in the following sections.

### 2. SB 375, General Plans and Local Land Use

Local officials will be key decision-makers in how SB 375 is implemented. While CARB will set region-wide greenhouse gas emission targets, each MPO will be responsible for developing its own “sustainable communities plan.” MPOs are governed by local elected officials. The “sustainable communities plan” will not supersede a city's or county's general plan or other planning policies or authorities. SB 375 specifically states that the regional planning process created under the bill does not usurp local land use authority.

In enacting SB 375 to promote smart growth principles, California took an incentive based approach rather than a statewide approach of regulatory reforms such as that which had been successfully implemented in Oregon and Florida. The language inserted into the bill includes that SB 375:

1. Is purely incentive based and does not depend on any regulatory action for ultimate success.

2. Does not grant land use power to the MPOs or any other regional government and thus explicitly retains land use authority with the cities and counties.
3. Does not require a local government's land use policies and regulations to be consistent with the regional Sustainable Community Strategy plans created by the MPO.
4. Does not alter the current regional planning structure, and thus it is not the state but local officials sitting as MPO board members that make transportation funding decisions.
5. Limits CARB's role in the approval of the Sustainable Community Strategy or Alternative Planning Strategy to merely accepting or rejecting the MPO's determination that the plan is sufficient to meet the reduction targets and gives CARB no authority to interfere with local decision making.
6. Provides no penalties for a region's failure to comply with the Sustainable Community Strategy.

While local government remains free to make land use decisions, seeking funding for regional transportation infrastructure to support land use decisions will become both a "carrot and a stick". For example, compliance with SB 375 could be critical to a local government's ability to access the large pool of state and regional funds for transit systems.

### **3. How Does SB 375 Work?**

SB 375 contains five important aspects that staff, decision makers, and the public should understand:

1. Creation of regional targets for GHG reduction.
2. Creating a plan to meet GHG reduction targets- the Sustainable Communities Strategy (SCS).
3. Regional transportation funding decisions must be consistent with the SCS.
4. Aligning transportation planning and housing element cycles.
5. CEQA exemptions and streamlining.

The bill applies only to the 18 MPOs in the state (which includes 37 of the 58 counties). The Fresno COG is one such MPO. Under existing law, the MPOs are to prepare a Regional Transportation Plan (RTP) for the region. The RTP must include both a development pattern for the region and a 20-year transportation plan based on that development pattern. SB 375 provides that the development pattern within the RTP should be designed to achieve regional GHG reduction targets set by CARB, thereby impacting transportation planning.

#### **3.1 Creation of Regional Targets for GHG Reduction**

SB 375 requires the CARB to set regional greenhouse gas emission reduction targets for passenger vehicles for 2020 and 2035 for each MPO and provides that the MPO may recommend a target for its region. As the local MPO, the Fresno COG established a SB 375 task force in November 2009 which has met monthly to develop a GHG emissions reduction target for Fresno County. Fresno COG developed three scenarios for target-setting purposes:

- § A baseline scenario was developed using the adopted 2007 RTP which includes land use data consistent with local general plans adopted before 2007.
- § Alternative “1” was developed with density intensification and more mixed uses, incorporating land use principles of the Fresno Blueprint. This alternative included general plan updates and new and updated specific plans that have taken place since the 2007 RTP, as well as increased corridor and activity center development and additional public transportation measures.
- § Alternative “2” was structured with even more aggressive corridor and activity center planning in the metropolitan area, along with additional transportation measures.

Based on preliminary modeling, Alternative 1 represents a reasonable combination of land use and transportation measures, consistent with the Fresno Blueprint, upon which to base an achievable GHG emissions reduction target for this region. GHG reduction targets for the Fresno County region will be presented to the Fresno COG Board in April (please see March 26, 2010 letter, *SB375 Greenhouse Gas Reduction Target for the Fresno County Region*, from Toney Boren, Fresno COG Executive Director). The target and description would then be forwarded to CARB for their consideration. The submission would include the GHG target expressed as a percent reduction in per capita greenhouse gas emissions from 2005 levels.

### **3.2 Creating a Plan to Meet GHG Reduction Targets – the Sustainable Communities Strategy (SCS)**

Federal law requires RTPs to include a land use allocation and requires a conformity finding that the RTP is consistent with the federal Clean Air Act. State law requires that an RTP include “clear, concise policy guidance to local and state officials” regarding transportation planning. One important component of the RTP for federal purposes is to estimate a likely or realistic development pattern for the region over the next 20 to 30 years. The forecasted growth pattern must be based upon “current planning assumptions.”

Drawing on this past experience, SB 375 requires preparation of an SCS to be based on the “most recent planning assumptions considering local general plans and other factors.” It also requires that the SCS be consistent with the federal regulations that require a realistic growth development pattern. An SCS is an enhanced land use element that will be developed within the RTP that sets forth a growth strategy for the region which strives towards achieving GHG emissions reductions. Specifically, an SCS will:

- § Identify the general location of uses, residential densities, and building intensities within the region;
- § identify areas within the region sufficient to house all the population over the course of the planning period of the regional transportation plan;
- § identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region;
- § identify a transportation network to service the transportation needs of the region;
- § gather and consider resource areas and farmland in the region;

- § set forth a forecasted development pattern for the region, which, when integrated with the transportation network, will reduce GHG emissions from automobiles and light trucks to achieve the GHG emissions reductions target approved by CARB; and
- § quantify the reduction in GHG emissions projected to be achieved by the SCS and, if the SCS does not achieve the targeted reductions, set forth the difference between the amount that the SCS would reduce GHG emissions and the target for the region.

The SCS would need to be prepared and adopted by 2014 which should provide sufficient time for Fresno COG and local agencies to solicit public input and prepare the plan for review by CARB. In order to encourage regional cooperation among the eight counties in the San Joaquin Valley, SB 375 specifically allows two or more counties to work together to develop cooperative policies and develop a multiregional “sustainable communities plan,” although at this time there are no plans to do so.

**Alternative Planning Strategy (APS).** The SCS can contain only “feasible” measures to reduce greenhouse gas emissions. If the SCS proves infeasible to achieve the GHG reduction target, the MPO must develop an Alternative Planning Strategy. The APS is a separate document from the RTP and therefore does not automatically affect the distribution of transportation funding. Specifically, an APS would:

- § Identify the principal impediments to achieving the target within the SCS;
- § may include an alternative development pattern for the region; and
- § describe how the GHG emissions reductions target would be achieved by the APS, and why the development pattern, measures, and policies in the APS are the most practical choices for meeting the GHG emissions reductions target.

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

CARB’s role in the approval of a SCS or APS is “very limited.” CARB may merely accept or reject the MPO’s determination that the plan would achieve the regional GHG reduction target established by CARB. It lacks the authority to interfere in any way with local decision-making.

### **3.3 Regional transportation funding decisions must be consistent with the SCS**

SB 375 requires the RTP to be internally consistent, corresponding to the consistency requirement of a General Plan. This means that the “action element” and the “financial element” of the RTP must be consistent with the SCS. In other words, the allocation of transportation funds—as dictated by the MPO board, which consists entirely of locally elected officials - must be consistent with the SCS, its land use plan, and its transportation policies. Note, however, that if an MPO adopts an Alternative Planning Strategy rather than an SCS, transportation funding decisions need not be consistent with the APS, because the APS does not become a part of the RTP.

SB 375 makes explicit the authority that already exists in the law. MPOs already have authority to impose policies or condition transportation funding. Even without SB 375, MPOs are taking additional steps in the direction of adopting policies related to reducing GHG emissions within

their RTPs because the California Transportation Commission (CTC) recently amended its RTP Guidelines to require consideration of GHG emissions. SB 375 does not change any current transportation funding formulas, such as county minimums for the State Transportation Improvement Program (STIP).

From the beginning, SB 375 has been viewed as the law where state transportation funding decisions are tied to land use. Under 375, however, there is no state allocation of transportation money to cities and counties based on whether local anti-sprawl efforts are sufficient. Instead, the bill uses the existing system – which gives most of the power to make transportation funding decisions to the regional MPOs.

### **3.4 Aligning Transportation Planning And Housing Element Cycles**

MPOs prepare both the RTP and the Regional Housing Needs Allocation (RHNA) plans. Conflicting deadlines have caused a disconnect between regional transportation planning and regional housing policy. SB 375 changes state Housing Element law in important ways – and, for the first time, links regional planning efforts for transportation and housing. It incorporates the RHNA requirement for the simple reason that, if housing targets weren't incorporated, the emissions reduction target could be met simply by cutting growth.

Under the bill, all transportation and housing planning processes are put on the same eight-year schedule – that is, the plans must be updated once every eight years. (There is a penalty for jurisdictions that don't meet the Housing Element schedule; they must prepare Housing Elements every four years instead.) The law also strengthens the language on required rezonings. If a local jurisdiction must rezone property as a result of the Housing Element, it must do so within three years and it must include minimum density and development standards for the site.

Local governments are required to adopt their housing element no later than 18 months after adoption of the first RTP after September 30, 2010. For Fresno County jurisdictions, this means that the next revision to the Housing Element will be required 18 months after adoption of the RTP in 2014 for submittal to the Department of Housing and Community Development (HCD).

### **3.5 CEQA Exemptions and Streamlining**

General consistency with a CARB approved plan - whether it's an SCS or APS—allows projects to qualify for two types of CEQA streamlining under SB 375:

§ **Projects consistent with the SCS or APS.** A residential or mixed-use project consistent with the density and policies in either a SCS or APS is not required to discuss (1) growth-inducing impacts; or (2) project specific or cumulative impacts from cars and light-duty truck trips on global warming or the regional transportation network if the project incorporates the mitigation measures required by an applicable prior environmental document.

§ **Three Types of Streamlining for Transit Priority Projects.** A “transit priority project” (TPP) is created by SB 375 that must meet three requirements: (1) contain at least 50% residential use; (2) have a minimum net density of 20 units per acre; and (3) be located

within one-half mile of a major transit stop or high quality transit corridor included in an RTP.

A TPP is exempt from CEQA if it is not more than 200 units on not more than 8 acres; can be served by existing utilities; does not effect historical resources; buildings are 15% more energy efficient than required and the project is designed to achieve 25 percent less water usage; and the project provides either a minimum of 5 acres/ 1,000 residents of open space, or housing for moderate, low, or very low income residents.

A TPP that does not qualify for an exemption may qualify for a sustainable communities environmental assessment (SCEA) if the project incorporates mitigation measures, performance standards, or criteria from prior applicable environmental impact reports. A SCEA is similar to a negative declaration under CEQA.

SB 375 also authorizes the adoption of specific traffic mitigation measures that apply to TPPs to include requirements for traffic control improvements, street or road improvements, transit passes, or other measures that will mitigate traffic impacts of transit priority projects. A TPP does not need to comply with any additional mitigation measures for the traffic impacts of that project if traffic mitigation measures have been adopted.

#### **4. What is the relationship of the SCS to the San Joaquin Valley (SJV) Blueprint?**

The San Joaquin Valley Blueprint Process has developed a cohesive regional framework that defines and offers alternative solutions to growth. The process involves the integration of transportation, housing, land use, economic development, and the environment to produce a preferred growth scenario to the year 2050. The San Joaquin Valley Blueprint will provide guidance to city and county efforts to update Regional Transportation and General Plans; transit planning; housing needs; SB 375 Sustainable Communities Strategies; and open-space/farmland conservation programs. The outcomes of the planning process will not supersede a local jurisdiction's land use authority, but will provide tools for local agencies' smart growth efforts. Elected officials will determine how their jurisdiction will implement the principles developed during the SJV Blueprint process.

SB 375 was modeled after the SJV Blueprint and seeks to encourage all regions in California to engage in a process similar to that required by the Blueprint. The final Scoping Plan under AB 32 contains numerous references to the Blueprint planning process as playing an important role in implementing SB 375 regional targets.

Because the SJV Blueprint sets out a growth scenario to 2050 and SB 375 requires scenario planning to 2020 and 2035, SB 375 should be viewed as interim implementation of the Blueprint. The Fresno County Blueprint has already identified a preferred growth scenario that includes increased residential densities for future growth. While residential densities are an important component of more compact growth, it is equally important to implement the guiding principles of the Blueprint as components of a sustainable strategy. These twelve principles adopted as integral to the SJV Blueprint include: (1) creating a range of housing opportunities and choices; (2) creating walkable and bikeable neighborhoods; (3) encouraging community and stakeholder collaboration; (4) fostering distinctive, attractive communities with a strong sense of

place; (5) making development decisions predictable, fair, and cost effective; (6) mixing land uses; (7) preserving open space, farmland, natural beauty and critical environmental areas; (8) providing a variety of transportation choices; (9) strengthening and directing development toward existing communities; (10) taking advantage of compact building design; (11) enhancing the economic vitality of the region; and finally, (12) supporting actions that encourage environmental resource management.

Several of these principles relating to compact growth and mixed use are compatible with the goals of SB 375. In addition to shifting the development emphasis from sprawl inducing suburban development to more urban and metropolitan development, the bill also strives to encourage development to surround public transit corridors—i.e. bus stops and rail lines.

## **5. Conclusions**

1. California's initiatives such as SB 375 are here to stay and could become models for comparable federal policy initiatives. Since 2006, an exceptional number of laws, rules, and programs that will affect planning in the San Joaquin Valley have been enacted or moved into the implementation stages. They include the California Global Warming Solutions Act of 2006 (AB 32); SB 375; the San Joaquin Valley Blueprint; new CEQA guidelines for greenhouse gas emissions; the California Transportation Commission's guidelines for addressing climate change requirements in the RTP; and the Attorney General's guidance to insure MPOs and local governments address climate change in their plans and decisions.
2. Climate change is a State directed program with high public visibility, strong public support and considerable policy momentum. Should MPOs take a "go slow" approach, there is risk of reduced access to transportation funding and land use decision-making prerogatives.
3. SB 375 does not place mandates on the MPO's and there are no penalties for a region's failure to comply with the SCS. The incentives under the bill may be sufficiently strong to compel most local governments to comply with the SCS even in the absence of a direct mandate. The prospect of the loss of funds for locally significant transportation projects will create pressure on local governments to comply with the law.
4. SB 375 employs the existing regional MPO structure under which the regional board consists of local government officials. Although the law's success will be realized through strong incentives, the current regional planning structure under which local officials sitting as MPO board members will not likely support measures that limit the discretion of member cities and counties.
5. Because of their limited scope and specific criteria, the impact of the CEQA provisions will not be significant in the San Joaquin Valley. The number of projects qualifying for the CEQA exemptions will be few. For example, meeting the definition of a Transit

Priority Project will be nearly impossible in Valley settings. Therefore, most stakeholders seem to agree that the CEQA incentives under the bill will have little impact on GHG reduction.

6. Although the success of SB 375 will depend largely on MPOs and local governments to implement, the state will continue to play a major role. The bill was passed at a time when the state and nation was going through a major recession, making it difficult for the state to provide adequate funding. Yet the state is pushing for more aggressive targets on reducing VMT while increasing the burden on local governments by recent cuts to public transit and redevelopment, key implementation tools for smart growth. At the state level, funding decisions need to align themselves with the climate change policies advocated by the state.
7. SB 375 specifically states that the regional planning process created under the bill does not usurp local land use authority. While the MPO can create a plan, unless the city or county has incorporated that plan within its General Plan there is no legal basis to enforce those regional plans and consequently, no way to guarantee smart growth. Consequently, while progress is being made with SB 375, there is still more to be done which will place a greater demand on local governments in the future.