POLICY PAPER

SUSTAINABLE COMMUNITIES FOR A SUSTAINABLE STATE: CALIFORNIA'S EFFORTS TO CURB SPRAWL AND CUT GLOBAL WARMING EMISSIONS

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I. CALIFORNIA'S PATH TOWARD SUSTAINABLE COMMUNITIES

Developing more compact and transit-friendly communities may seem like a lost cause in a state that is synonymous with sprawl. Indeed, Californians love spacious suburban living and their go-anywhere, haul-anything sport utility vehicles and pickups. But they also are passionate about the pursuit of healthy, thriving lifestyles. This latter passion has been taking on ever-greater weight in Californians' lifestyle decisions. Air quality, energy efficiency, and ease of transportation matter more in deciding where and how to live and work. Property values and state policies are beginning to reflect these priorities.

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In what was perhaps the most dramatic demonstration of this values shift, the California Legislature in 2008 passed the nation's first law to link local and regional development decisions with global warming. The Sustainable Communities Strategy and Climate Protection Act, also known as Senate Bill 375,[1] aims to achieve greenhouse gas reductions from passenger vehicles through improved transportation and land-use planning—improvements that will make it easier for residents to spend less time driving.

Communities that adopt a sustainability strategy will have more to boast about than greenhouse gas reductions. Improvements that lessen the need to drive come loaded with co-benefits: more healthful air, less traffic congestion, more convenient and efficient mass transit, and more walkable and bicycle-friendly neighborhoods.

The legislation authored by Senate President Pro Tem Darrell Steinberg has the California Air Resources Board (ARB) venturing into land use for the first time in its forty-three year history. Over the decades, the ARB's stringent vehicle emission standards have spurred major advancements in the design of cleaner engines and fuels nationwide—from catalytic converters to unleaded gasoline and zero-emission electric cars.[2] But the agency has no experience or jurisdiction in land use. The landmark California Global Warming Solutions Act of 2006 (Assembly Bill 32), however, gives the ARB a clear mandate to reduce climate-altering emissions from vehicles.[3] One way to lower those emissions is to cut back the amount of driving. That is where S.B. 375 comes into play.[4]

S.B. 375 requires the ARB to set greenhouse gas reduction targets for each of the state's eighteen Metropolitan Planning Organizations (MPOs) for the years 2020 and 2035.[5] These are federally designated associations of local governments that prepare long-range transportation plans and coordinate federal highway and transit spending in urban areas.[6] S.B. 375 requires each MPO to adopt a Sustainable Communities Strategy, a

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1. Sustainable Communities Strategy and Climate Protection Act, S.B. 375, 2007–2008 Leg. Sess. (Cal. 2008) (codified at CAL. GOV'T CODE §§ 14522.1, 14522.2, 65080, 65080, 65080.01, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, 65588; CAL. PUB. RES. CODE §§ 2161.3, 21155, 21159.28).

2. JAMES E. MCCARTHY & ROBERT MELTZ, CRS REPORT FOR CONGRESS: CALIFORNIA'S WAIVER REQUEST TO CONTROL GREENHOUSE GASES UNDER THE CLEAN AIR ACT 1 (2009), *available at* http://dh7862-29.wh.intermedia.net/NLE/CRSreports/09Mar/RL34099.pdf.

3. California Global Warming Solutions Act of 2006, Assemb. B. 32, 2005–2006 Leg. Sess. pt. 4, § 38560 (Cal. 2006) (codified at CAL. HEALTH & SAFETY CODE §§ 38500, 38501, 38505, 38510, 38530, 38550, 38560, 38560.5, 38561, 38563–38565, 38570, 38571, 38574, 38580, 38590–38599).

4. S.B. 375 § 1(c) (codified at CAL. GOV'T CODE § 65080).

5. *Id.* § 4(b)(2)(a) (codified at CAL. GOV'T CODE § 65080).

6. *Id.* §§ 1(e), 2(a)(1) (codified at CAL. GOV'T CODE § 14522.1).

blueprint of policies and measures for achieving the reduction targets.[7] The law encourages, but does not require, cities and counties to approve their region's sustainability plan and incorporate the strategies in their day-to-day land-use decisions.[8]

The sustainability plans will link land use, housing, and transportation together for the first time. Developing them will require extensive collaboration between local, regional, and state governments.

S.B. 375 is a powerful complement to the ARB's suite of climate-mitigation measures, which include a Low Carbon Fuel Standard and clean car legislation.[9] This pioneering law and its implementation are worthy of study and commentary as a potential model for other states to follow. Its approach to reducing global warming emissions through changes in urban patterns of travel and development reflects a broad shift toward more integrated environmental problem solving, not just at the ARB or in California, but across continents. It is a more holistic approach driven by the urgency of climate change and the economic opportunities in the transition to clean and efficient energy.

II. HOW WE WILL GET THERE

S.B. 375 will move from a piece of legislation to projects on the ground in the following ways:

A. Targets

On September 23, 2010, the ARB's governing board unanimously adopted the greenhouse gas reduction targets for each of the state's eighteen MPOs.[10] The targets are based mainly on data from the MPOs and local air pollution control districts.[11] The Board widely embraced the target-setting process that its appointed committee of land-use specialists had recommended. Known as the Regional Targets Advisory Committee, the group is comprised of local and regional planning officials and experts from

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7. *Id.* §§ 1(e), 4(a) (codified at CAL. GOV'T CODE § 65080).

8. *Id.* § 4(b)(2)(J) (codified at CAL. GOV'T CODE § 65080).

9. Low Carbon Fuel Standard, Cal. Exec. Order No. S-01-07, CAL. HEALTH & SAFETY CODE § 38561(a) (Jan. 17, 2007); Vehicular Emissions: Greenhouse Gases, Assemb. B. 1493, 2001–2002 Leg. Sess. (Cal. 2002) (codified at CAL. HEALTH & SAFETY CODE §§ 42823, 43018.5).

10. Air Resources Board Res. 10-31, Regional Greenhouse Gas Emission Reduction Targets Pursuant to S.B. 375, 13–14 (2010), *available at* http://www.arb.ca.gov/cc/sb375/final.resolution.10.31.pdf.

11. S.B. 375 § 4(b)(2)(A)(i) (codified at CAL. GOV'T CODE § 65080).

the building industry, environmental organizations, and academia.[12] The Board particularly appreciated the suggested metric for the targets. The committee recommended that the targets be based on a percent reduction per capita from 2005 emission levels.[13] A per capita target addresses disparities in population growth among the urban regions. In this context, a region's growth rate matters less than its actions to reduce an individual's greenhouse gas emissions. Using 2005 as the baseline recognizes the efforts regions have already taken to shrink their carbon footprint.

B. Strategies

The MPOs are now designing their Sustainable Communities Strategy (SCS) for meeting their established greenhouse gas reduction targets.[14] These land-use decisions will be made exclusively by local officials through their MPOs; the state has no authority over local land-use policy.[15] If necessary, a region may instead adopt an Alternative Planning Strategy (APS) that shows how it would otherwise meet the targets.[16] Once an MPO approves an SCS or APS it becomes part of its Regional Transportation Plan—a federally required blueprint that guides the area's funding needs for twenty or more years.[17]

C. Updates

The ARB must update each region's targets every eight years, consistent with the MPO's timeline for updating its Regional Transportation Plan.[18] The ARB also may re-evaluate the targets for possible revision every four years, to ensure they are still ambitious and achievable.[19]

D. Incentives

There are no penalties for a region that fails to meet its greenhouse gas reduction targets. Instead, the law is driven by incentives. Developers can get relief from certain environmental review requirements under the

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12. REG'L TARGETS ADVISORY COMM., A REPORT TO THE CALIFORNIA AIR RESOURCES BOARD (2009), *available at* http://www.arb.ca.gov/cc/sb375/rtac/report/092909/finalreport.pdf.
13. *Id.* at 6.
14. S.B. 375 § 2(a)(1) (codified at CAL. GOV'T CODE § 14522.1).
15. *Id.* § 4(b)(2)(J) (codified at CAL. GOV'T CODE § 14522.1).
16. *Id.* §§ 1(e), 4(b)(2)(H) (codified at CAL. GOV'T CODE § 65080).
17. *Id.* §§ 1(e), 4(b)(2)(B) (codified at CAL. GOV'T CODE § 65080).
18. *Id.* § 4(b)(2)(A)(iv) (codified at CAL. GOV'T CODE § 65080).
19. *Id.*

California Environmental Quality Act[20] if their new residential or mixed-use projects are consistent with the region's SCS or APS.[21] The lack of legal remedies to force a region to comply does not mean that failure has no consequences. Regions that do not strive to reduce global warming emissions through changes in land-use and transportation planning will miss out on federal funding for more livable, compact, and transit-friendly projects. They will continue to spend too much of their economic and natural resources to support bedroom communities. Their residents will continue to lack places to lead active lifestyles, and they will continue to spend too much time driving or stuck in traffic.

III. REFRAMING THE PLANNING DISCUSSION

S.B. 375 is changing the conversation about transportation and land use in California. It is no longer just about moving motorized vehicles from point A to point B. Urban planners, traffic engineers, and homebuilders now talk of "complete streets," "active transportation," and "walkability," putting pedestrians and bicyclists on the same plane as automobiles. These and other key terms in holistic planning connote the public benefits that S.B. 375 promises to deliver beyond reductions in global warming emissions. "Compact development," for example, translates to more undeveloped land for wildlife, for growing food locally, and for filtering out pollutants in stormwater runoff.

The sustainable communities law also has diversified the range of participants in regional planning, thanks to an unlikely coalition of supporters that lobbied for its passage.[22] Advocates included the Natural Resources Defense Council, California Rural Legal Assistance, Inc., the American Lung Association, the California Building Industry Association, and the League of California Cities.[23] The diversity of supporters was necessary for S.B. 375 to become law. Many of the same interests are influencing its implementation.

The target-setting process spawned an unprecedented level of collaboration among the MPOs. They coordinated extensively during the target-setting phase. Their planning staffs met regularly to share expertise in scenario planning. They achieved consistency across regions in the type of

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20. California Environmental Quality Act, CAL. PUB. RES. CODE §§ 21000–21177 (2009).

21. *Id.* §§ 21155, 21155.1, 21155.2, 21159.28.

22. CAL. LEAGUE OF CONSERVATION VOTERS & NAT. RES. DEFENSE COUNCIL, S.B. 375 (STEINBERG) OVERVIEW 1 (2008), *available at* http://www.e2.org/ext/doc/SB%20375%20Factsheet.pdf.

23. *Id.*

assumptions, content, and data formats used in the computer simulations. The MPOs submitted their scenarios to the ARB either individually or jointly as the law allows.[24] The collaboration continues as each region moves on to develop a Sustainable Communities Strategy for meeting their climate targets.

IV. THE FEDERAL CONNECTION

S.B. 375 will give California communities a competitive advantage when it comes to federal transportation dollars. With the upcoming reauthorization of a national transportation bill, the Obama Administration intends to reward regions that have integrated their transportation, housing, and land-use plans with climate change in mind.[25] California will be ready to showcase its work having a Sustainable Community Strategy as part of each MPO's Regional Transportation Plan.

An alliance of federal agencies has already formed to promote holistic planning from coast to coast. The Environmental Protection Agency (EPA), the Department of Transportation, and the Department of Housing and Urban Development are collaborating on a Sustainable Communities Initiative to "improve access to affordable housing, more transportation options, and lower transportation costs while protecting the environment in communities nationwide."[26] The three agencies have issued a set of "livability principles" to guide the effort. The principles mirror several S.B. 375 values such as clean air, lower household fuel costs, and less dependence on foreign oil.[27] The Consolidated Appropriations Act of 2010[28] provides $150 million for the Initiative.[29] That includes $98 million in competitive grants for local projects that advance community sustainability.[30]

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24. S.B. 375 § 4(b)(2)(M) (codified at CAL. GOV'T CODE § 65080).

25. BARACK OBAMA & JOE BIDEN, NEW ENERGY FOR AMERICA 8 (2008), *available at* http://www.barackobama.com/pdf/factsheet_energy_speech_080308.pdf.

26. *HUD-DOT-EPA Partnership for Sustainable Communities*, U.S. ENVTL. PROTECTION AGENCY, http://www.epa.gov/smartgrowth/partnership (last updated Oct. 26, 2010).

27. *Id.*

28. Consolidated Appropriations Act, 2010, H.R. 3288, 111th Cong., div. A, tit. II (2010); *Sustainable Communities Regional Planning Grants*, U.S. DEPARTMENT HOUSING & URBAN DEV., http://portal.hud.gov/portal/page/portal/HUD/program_offices/sustainable_housing_communities/Sustainable%20Communities%20Regional%20Planning%20Grants (last visited Oct. 24, 2010) [hereinafter *Regional Planning Grants*].

29. H.R. 3288 div. A, tit. II ; *Regional Planning Grants*, *supra* note 28.

30. *Regional Planning Grants*, *supra* note 28.

Derek Douglas, President Obama's Special Assistant for Urban Affairs, referred to the Initiative as "the central component of our urban policy agenda at the White House."[31] In the same online discussion, Tim Torma, Deputy Director of the EPA's Office of Sustainable Communities, cited California's Smart Mobility program as the best sustainability project in the country. Smart Mobility is a joint effort by the EPA and the California Department of Transportation to invest more money in projects that result in shorter or fewer car trips and lower-polluting modes of transportation.[32]

Clearly, S.B. 375 is bringing California to the forefront of sustainable urban planning. Even before the ARB set the regional climate targets, the Urban Land Institute gave the law a positive review.[33] The Institute, which is the development industry's leading think tank on land use, predicted that S.B. 375 would provide "more consistency, coordination and clarity to the development process, which the land-use industry needs to start recovering from the recession."[34] Inclusion in a regional sustainability strategy enhances a community's ability to attract high-quality investors, employers, and projects because it signals a stable development environment. Having a strategy in place will also save communities time and money fighting environmental review challenges on the global warming impacts of proposed projects.

V. THE BIG PICTURE

S.B. 375 reflects the changing demographics and lifestyle preferences in California. Demand for large single-family homes in bedroom communities distant from employment centers is declining. Real estate market analyses show the trends moving toward smaller housing units because of changes in lifestyle preferences, affordability, and demographics.[35] Nationally, married couples with children account for seventy-five percent of all households, compared with eighty-seven percent

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31. *Open for Questions: Sustainable Communities*, WHITE HOUSE (July 15, 2010), http://www.whitehouse.gov/photos-and-video/video/open-questions-sustainable-communities.

32. *Smart Mobility Framework*, CAL. DEPARTMENT TRANSP., http://www.dot.ca.gov/hq/tpp/offices/ocp/smf.html (last visited Oct. 25, 2010).

33. URBAN LAND INST., S.B. 375 IMPACT ANALYSIS REPORT (2010), *available at* http://www.uli.org/ResearchAndPublications/PolicyPracticePriorityAreas/Sustainability/SB375.aspx.

34. *S.B. 375 Impact Analysis Report*, URBAN LAND INSTITUTE (June 4, 2010), http://www.uli-la.org/node/480.

35. VISION CALIFORNIA, STATEWIDE SCENARIOS REPORT (2010), *available at* http://www.visioncalifornia.org/Vision%20California%20-%20Charting%20Our%20Future%20-%20Report.pdf.

in 1970.[36] S.B. 375 encourages compact, walkable, and transit-accessible neighborhoods that appeal to a highly underserved market of childless couples, single-parent families, empty nesters, and renters.

Expanding consumers' choice of housing types is just one of many anticipated co-benefits of S.B. 375. But perhaps the greatest co-benefit—and the strongest argument for pursuing land-use policies that reduce global warming emissions—is the betterment of public health. Less driving means more healthful air and more opportunities for physically "active transportation" by foot or pedal. It also means more time with families and friends and less money at the pump—leaving that much more time to enjoy life.

If S.B. 375 achieves its goals as expected, it will be because the law advances Californians to where they know they need to be and want to be on all the basic issues that affect their economic and personal well being, including air pollution. No matter what Californians may think of the debates over global warming, their support for actions that clean up the air remain as strong as ever.

36. ROSE M. KREIDER & DIANA B. ELLIOTT, U.S. CENSUS BUREAU, AMERICA'S FAMILIES AND LIVING ARRANGEMENTS: 2007 at 5 (2007), *available at* http://www.census.gov/prod/2009pubs/p20-561.pdf.