



San Gabriel Valley Council of Governments

AGENDA AND NOTICE

OF THE MEETING OF THE SGVCOG PLANNING DIRECTORS

TECHNICAL ADVISORY COMMITTEES (TAC)

Thursday, June 22, 2017 12:00 PM

Chair: Larry Stevens
City of San Dimas

Vice-Chair: Craig Hensley
City of Duarte

Members
Alhambra
Arcadia
Azusa
Baldwin Park
Claremont
Covina
Diamond Bar
Duarte
El Monte
Glendora
Irwindale
La Verne
Monrovia
Monterey Park
Pasadena
Pomona
Rosemead
San Dimas
San Gabriel
Sierra Madre
South Pasadena
Temple City
Walnut
West Covina

Thank you for participating in today's meeting. The Planners' Technical Advisory Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the Planners' Technical Advisory Committee are held on the fourth Thursday of each month at 12 PM at Upper San Gabriel Valley Municipal Water District-602 E. Huntington Dr., Suite B, Monrovia, CA 91016.* The Planners' Technical Advisory Committee agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvkog.org. Copies are available via email upon request (sgv@sgvcog.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

CITIZEN PARTICIPATION: Your participation is welcomed and invited at all Planners' Technical Advisory Committee meetings. Time is reserved at each regular meeting for those who wish to address the Board. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE PLANNERS' TECHNICAL ADVISORY COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Planners' Technical Advisory Committee may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Planners' Technical Advisory Committee. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Committee can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Planners' Technical Advisory Committee.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



PRELIMINARY BUSINESS

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*)

CONSENT CALENDAR (*It is anticipated that the Committee may take action on the following matters*)

4. Planners TAC Meeting Minutes – 5/25/2017
Recommended Action: Approve.

PRESENTATIONS

5. S. 1272 Drone Federalism Act: Presentation by Brad Jensen, Economic Partnership
Recommended Action: For information
6. SB 1241, Fire Hazard Planning and Mitigation: Presentation by Heather McCulley, CALFIRE
Recommended Action: For information

ACTION ITEMS (*It is anticipated that the Planning TAC may take action on the following matters.*)

7. Election of Chair and Vice Chair.
Recommended Action: receive nominations and elect chair and vice chair for 2017-2018.

DISCUSSION ITEMS (*It is anticipated that the Planning TAC may take action on the following matters.*)

8. SB 649 (Hueso): small cell sites
Recommended Action: for information.

INFORMATION ITEMS

9. Final Measure M Guidelines
Recommended Action: for information.

UPDATE ITEMS

EXECUTIVE DIRECTOR'S COMMENTS

CHAIR'S REPORT

10. Current City Projects
Recommended Action: For information.

ANNOUNCEMENTS

June 22, TOD Planning Grants and TOD-Based TIF Pilot Program Workshop
July 27, next Planning Director's TAC (dark?)

ADJOURN



SGVCOG Planners TAC Meeting Minutes

Date: May 25, 2017
 Time: 12:00 P.M.
 Location: Upper San Gabriel Valley Municipal Water District
 602 E. Huntington Dr., Monrovia, CA 91016

PRELIMINARY BUSINESS

1. Call to Order. The meeting was called to order at 12:04 P.M.
2. Roll Call

Planners TAC Members Present

J. Kasama, Arcadia
 A. Harbin, Baldwin Park
 B. Lee, Covina
 M. Nakajima, Diamond Bar
 C. Hensley, Duarte
 J. Kugel, Glendora
 C. Wahab, La Verne
 C. Hahn, Rosemead
 L. Stevens, San Dimas
 V. Gonzalez, Sierra Madre
 D. Watkins, South Pasadena
 H. Lin, Temple City

Planners TAC Members Absent

Alhambra
 Azusa
 Claremont
 El Monte
 Irwindale
 Monrovia
 Monterey Park
 Pasadena
 Pomona
 San Gabriel
 Walnut
 West Covina

SGVCOG Staff

E. Wolf
 C. Cruz

3. Public Comment.
 There were no public comments.

CONSENT CALENDAR

4. Review of Joint Public Works/Planners TAC Meeting Minutes: 4/17/2017
 There was a motion to approve the minutes (M/S: A. Harbin/C. Hensley).

[Motion Passed]

Ayes	Arcadia, Baldwin Park, Covina, Diamond Bar, Duarte, Glendora, La Verne, Rosemead, San Dimas, Sierra Madre, South Pasadena, Temple City
Noes	
Abstain	
Absent	Alhambra, Azusa, Claremont, El Monte, Irwindale, Monrovia, Monterey Park, Pasadena, Pomona, San Gabriel, Walnut, West Covina

PRESENTATIONS

5. TOD Planning Grant and TOD-Based Tax Increment Financing Pilot Program: Presentations by Elizabeth Carvajal, Metro Transit Supportive Planning
 E. Carvajal reviewed Metro’s Transit Supportive Planning Toolkit and its applicability to this year’s TOD Planning Grant. There was a question regarding how out of date a plan must be to qualify; for example, if a Specific Plan has recently been adopted, can the grant fund amendments?

Carvajal stated that it could. She discussed the TIF pilot program and the creation of an Enhanced Infrastructure Financing District (EIFD). The pilot program follows a three-step process, each step designed to reveal if a city is qualified to proceed to the next step. There will be a workshop on both grants on June 22nd, immediately following the Planners TAC.

ACTION ITEMS *(It is anticipated that the Planning TAC may take action on the following matters.)*

DISCUSSION ITEMS

INFORMATION ITEMS

UPDATE ITEMS

6. Housing Legislation
E. Wolf reviewed the Item 6 agenda packet insert and updated members on the status of 2017 housing bills.
7. Measure H
C. Cruz reviewed the Measure H Comment Letter submitted by the SGVCOG. He made the point that cities will not directly receive funding. They must partner with an eligible non-profit.
8. Measure M
E. Wolf reviewed the Metro Board report detailing various formulas for local return. Also discussed was the Policy Advisory Council document giving their suggested changes to the Measure M guidelines. Notably, the PAC advised that no change be made to the local return formula; they were against establishing a minimum return amount.

EXECUTIVE DIRECTOR'S COMMENTS

CHAIR'S REPORT

The Chair discussed SB 649 (Hueso) regarding small cell tower siting and advised staff to add this to the next agenda.

9. Current City Projects
J Kugel discussed the reaction of Glendora residents to Specific Plan changes passed a few years ago to allow for higher density and Transit Oriented Development around the site of the city's future Gold Line station. The changes included fewer parking spaces, mixed use, up to five stories, and building up to the sidewalk line. Residents are opposed to these changes and the council has directed staff to rollback of these changes.

ANNOUNCEMENTS

- June 7, LACCE Workshop
- June 22, Next Planners TAC
- June 22, TOD Planning Grants and TOD-Based TIF Pilot Program Workshop

ADJOURN

The meeting adjourned at 1:34 P.M.

115TH CONGRESS
1ST SESSION

S. 1272

To preserve State, local, and tribal authorities and private property rights with respect to unmanned aircraft systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2017

Mrs. FEINSTEIN (for herself, Mr. LEE, Mr. BLUMENTHAL, and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To preserve State, local, and tribal authorities and private property rights with respect to unmanned aircraft systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drone Federalism Act
5 of 2017”.

1 **SEC. 2. PRESERVATION OF STATE, LOCAL, AND TRIBAL AU-**
2 **THORITIES WITH RESPECT TO UNMANNED**
3 **AIRCRAFT SYSTEMS.**

4 (a) **SCOPE OF PREEMPTION FOR CIVIL UNMANNED**
5 **AIRCRAFT REGULATIONS.**—In prescribing regulations or
6 standards related to civil unmanned aircraft systems, the
7 Administrator shall—

8 (1) define the scope of the preemptive effect of
9 such regulations or standards pursuant to section
10 40103 or 41713 of title 49, United States Code,
11 which shall be limited to the extent necessary to en-
12 sure the safety and efficiency of the national air-
13 space system for interstate commerce; and

14 (2) preserve, to the greatest extent practicable,
15 legitimate interests of State, local, and tribal govern-
16 ments, including—

17 (A) protecting public safety;

18 (B) protecting personal privacy;

19 (C) protecting property rights;

20 (D) managing land use; and

21 (E) restricting nuisances and noise pollu-
22 tion.

23 (b) **RESERVED POWERS.**—

24 (1) **IN GENERAL.**—In prescribing regulations or
25 standards related to civil unmanned aircraft sys-
26 tems, the Administrator shall ensure that the au-

1 thority of a State, local, or tribal government to
2 issue reasonable restrictions on the time, manner,
3 and place of operation of a civil unmanned aircraft
4 system that is operated below 200 feet above ground
5 level or within 200 feet of a structure is not pre-
6 empted.

7 (2) REASONABLE RESTRICTIONS.—For pur-
8 poses of paragraph (1), reasonable restrictions on
9 the time, manner, and place of operation of a civil
10 unmanned aircraft system include the following:

11 (A) Limitations on speed.

12 (B) Prohibitions or limitations on oper-
13 ations in the vicinity of schools, parks, road-
14 ways, bridges, or other public or private prop-
15 erty.

16 (C) Restrictions on operations at certain
17 times of the day or week or on specific occa-
18 sions such as during parades or sporting events.

19 (D) Prohibitions on operations while the
20 operator is under the influence of drugs or alco-
21 hol.

22 (E) Prohibitions on careless or reckless op-
23 erations.

1 (F) Other prohibitions that protect public
 2 safety, personal privacy, or property rights, or
 3 that manage land use or restrict noise pollution.

4 **SEC. 3. PRESERVATION OF PRIVATE PROPERTY RIGHTS.**

5 (a) AFFIRMATION OF APPLICABILITY OF CONSTITU-
 6 TIONAL TAKINGS CLAUSE TO FEDERAL AVIATION ADMIN-
 7 ISTRATION REGULATIONS.—In prescribing regulations or
 8 standards related to civil unmanned aircraft systems, the
 9 Administrator shall not authorize the operation of a civil
 10 unmanned aircraft in the immediate reaches of the air-
 11 space above property without permission of the property
 12 owner.

13 (b) AFFIRMATION OF APPLICABILITY OF CONSTITU-
 14 TIONAL TAKINGS CLAUSE ABSENT FEDERAL AVIATION
 15 ADMINISTRATION REGULATIONS.—Section 336(a) of the
 16 FAA Modernization and Reform Act of 2012 (Public Law
 17 112–95; 49 U.S.C. 40101 note) is amended—

18 (1) in paragraph (4), by striking “; and” and
 19 inserting a semicolon;

20 (2) in paragraph (5), by striking the period at
 21 the end and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(6) when flown in the immediate reaches of
 24 the airspace above property (as defined in section

1 3(c) of the Drone Federalism Act of 2017), the op-
2 erator has the permission of the property owner.”.

3 (c) DEFINITION.—In this section, the term “imme-
4 diate reaches of the airspace above property”, with respect
5 to the operation of a civil unmanned aircraft system, in-
6 cludes—

7 (1) any area within 200 feet above the ground
8 level of the property;

9 (2) any area within 200 feet above any struc-
10 ture on the property; and

11 (3) any area where operation of the aircraft
12 system could interfere with the enjoyment or use of
13 the property.

14 **SEC. 4. PILOT PROGRAM ON FEDERAL PARTNERSHIPS.**

15 (a) IN GENERAL.—Not later than one year after the
16 date of the enactment of this Act, the Administrator shall
17 enter into agreements with not more than 10 State, local,
18 or tribal governments to establish pilot programs under
19 which—

20 (1) the Administrator shall provide technical as-
21 sistance to such governments in regulating the oper-
22 ation of civil unmanned aircraft systems, including
23 through the use of the latest available technologies;
24 and

1 (2) the Administrator and such governments
2 shall coordinate efforts with respect to the enforce-
3 ment of regulations relating to the operation of civil
4 unmanned aircraft systems.

5 (b) SELECTION.—In selecting among State, local,
6 and tribal governments for purposes of establishing pilot
7 programs under subsection (a), the Administrator shall
8 seek to enter into agreements with—

9 (1) governments that vary in their size and in-
10 tended approach to regulation of civil unmanned air-
11 craft systems; and

12 (2) not less than one State government, not less
13 than one county government, not less than one city
14 government, and not less than one tribal govern-
15 ment.

16 (c) UNMANNED AIRCRAFT SYSTEMS TRAFFIC MAN-
17 AGEMENT SYSTEM.—The Administrator shall coordinate
18 with Administrator of the National Aeronautics and Space
19 Administration to ensure that participants in pilot pro-
20 grams established under subsection (a) are consulted in
21 the development of the unmanned aircraft systems traffic
22 management system under subsection (a) section 2208 of
23 the FAA Extension, Safety, and Security Act of 2016
24 (Public Law 114–190; 49 U.S.C. 40101 note) and the
25 pilot program under subsection (b) of that section.

1 (d) REPORT REQUIRED.—Not later than 2 years
2 after establishing the pilot programs required by sub-
3 section (a), the Administrator shall submit to Congress,
4 and make available to the public, a report identifying best
5 practices for State, local, and tribal governments to regu-
6 late the operation of civil unmanned aircraft systems and
7 to collaborate with the Federal Aviation Administration
8 with respect to the regulation of such systems.

9 **SEC. 5. RULE OF CONSTRUCTION.**

10 Nothing in this Act shall be construed—

11 (1) to diminish or expand the preemptive effect
12 of the authority of the Federal Aviation Administra-
13 tion with respect to manned aviation; or

14 (2) to affect the civil or criminal jurisdiction
15 of—

16 (A) any Indian tribe relative to any State
17 or local government; or

18 (B) any State or local government relative
19 to any Indian tribe.

20 **SEC. 6. DEFINITIONS.**

21 In this Act:

22 (1) ADMINISTRATOR.—The term “Adminis-
23 trator” means the Administrator of the Federal
24 Aviation Administration.

1 (2) CIVIL.—The term “civil”, with respect to an
2 unmanned aircraft system, means that the un-
3 manned aircraft is not a public aircraft (as defined
4 in section 40102 of title 49, United States Code).

5 (3) INDIAN TRIBE.—The term “Indian tribe”
6 has the meaning given that term in section 4 of the
7 Indian Self-Determination and Education Assistance
8 Act (25 U.S.C. 5304).

9 (4) LOCAL GOVERNMENT.—The term “local”,
10 with respect to a government, means the government
11 of a subdivision of a State.

12 (5) STATE.—The term “State” means each of
13 the several States, the District of Columbia, and the
14 territories and possessions of the United States.

15 (6) TRIBAL GOVERNMENT.—The term “tribal”,
16 with respect to a government, means the governing
17 body of an Indian tribe.

18 (7) UNMANNED AIRCRAFT; UNMANNED AIR-
19 CRAFT SYSTEM.—The terms “unmanned aircraft”
20 and “unmanned aircraft system” have the meanings
21 given those terms in section 331 of the FAA Mod-
22 ernization and Reform Act of 2012 (Public Law
23 112–95; 49 U.S.C. 40101 note).

○

Drone Federalism Act

Senator Lee (UT), Senator Cotton (AR), Senator Feinstein (CA) and Senator Blumenthal (CT)

Summary

The Drone Federalism Act, a bipartisan bill sponsored by Senators Mike Lee (R-UT), Tom Cotton (R-AR), Richard Blumenthal (D-CT) and Dianne Feinstein (D-CA) creates a framework to ensure drone technology flourishes while protecting public safety, property rights, and privacy. This bill acknowledges the FAA's general preemptive authority between 200 and 400 feet above ground level (AGL). Below 200 feet and within 200 feet of a structure, it clarifies that state and local governments may play a role in making reasonable rules related to unmanned aircraft. The bill removes uncertainty related to judicial interpretations and potential litigation and clarifies Congressional intent regarding the balance of state and Federal interests related to unmanned aircraft. Removing such uncertainty is essential to the industry so that it can continue to grow, allowing communities to benefit from the economic impact of the industry, which is expected to soar to \$127 billion over the next several years.

Specifically, the bill gives state and local governments the ability to implement a limited number of reasonable standards of time, manner and place at 200 feet above ground level and within 200 feet of a structure, leaving unmanned aircraft operating outside that zone only subject to federal rules. This bill promotes safety by recognizing that local conditions, ranging from a farmers market or a parade to local first responder activity, is dynamic, and is often only known by local officials. It fosters innovation by creating a path to scalable commercial use of drones through pilot programs. This will lay the groundwork for the implementation of an unmanned traffic management (UTM) system in which stakeholders and industry will mutually benefit.

Importantly, the bill specifically protects manned aviation, making clear that the authority of state and local governments extends only to unmanned aircraft at 200 feet AGL and below.

Key Provisions of the Drone Federalism Act

- Empowers state, local and tribal government to issue reasonable time, manner and place restrictions on civil UAS operations below 200 feet AGL or within 200 feet of a structure, a standard akin to the protection of free speech
- Outlines the scope of reasonable time, manner and place conditions on items such as:
 - Speed of aircraft
 - Flight over critical infrastructure such as schools, churches, parks
 - Operations during certain times of day or week, or during special events
 - Prohibitions on reckless & careless operations or operating under the influence
 - Public safety, privacy, land use, and noise pollution
- Protects private property rights from UAS operations within 200 feet AGL above one's property or in an

area that could interfere with the use and enjoyment of that property.

- Accelerates the growth of the drone industry by leveraging state and local pilot programs to expedite the implementation of an Unmanned Traffic Management (UTM) system and ensure that state and local concerns and learnings are reflected in UTM

Background

The proliferation of small unmanned aircraft systems (UAS) – known as “unmanned aerial vehicles”, “remote piloted aircraft”, or “drones” – promises to revolutionize the way Americans do business. Drone technology is reaching into a many different sectors of the economy and could fundamentally alter the way goods move across the country and improve the capacity of emergency personnel to respond to disasters.

However, the absence of clear rules at low altitudes and the uncertain role of state and local officials relative to the use of this emerging technology threatens to harm the industry. The FAA lacks the aviation safety inspector resources to monitor the use of drones. Simultaneously, state and local governments lack clarity regarding their role, which remains mired in unclear precedents and interpretations based on old laws applied to new technology. State and local authorities want to welcome drones, but also recognize that they must play some role in managing technology that operates inches above city streets and sidewalks in airspace rarely occupied by manned aircraft. The bill relieves this untenable situation, which threatens to mire the industry in years of uncertainty and create a patchwork quilt of differing judicial decisions across the Federal Circuit Courts and in each State Supreme Court. State and local policymakers seek a response to issues of safety, noise pollution, sensitive infrastructure, property rights, and interference with first responders. Yet they face an unclear legal environment that grows more uncertain by the day.

State and local authorities have traditionally exercised their police, land use, and zoning powers to address the specific concerns of their community: protecting the safety and tranquility of their communities, ensuring order, and providing for the general welfare. This bill provides clear direction from Congress that state and local authorities have similar powers when it comes to unmanned aircraft, while creating an environment that allows drone technology to thrive.

Support

Senator Mike Lee; Senator Cotton; Senator Dianne Feinstein; Senator Blumenthal; San Francisco Mayor Ed Lee; National Association of State Aviation Officials; National Conference of State Legislatures; National Governors Association; U.S. Conference of Mayors; National Association of Counties; National League of Cities; California State Association of Counties; and the League of California Cities.

Senate Bill No. 1241

CHAPTER 311

An act to amend Sections 65302 and 65302.5 of, and to add Sections 65040.20 and 66474.02 to, the Government Code, and to add Section 21083.01 to the Public Resources Code, relating to land use.

[Filed with Secretary of State September 13, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1241, Kehoe. Land use: general plan: safety element: fire hazard impacts.

(1) The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with, among other things, wildland and urban fires. The safety element includes requirements for state responsibility areas, as defined, and very high fire hazard severity zones, as defined.

This bill would revise the safety element requirements for state responsibility areas and very high fire hazard severity zones, as specified, and require the safety element, upon the next revision of the housing element on or after January 1, 2014, to be reviewed and updated as necessary to address the risk of fire in state responsibility areas and very high fire hazard severity zones, taking into account specified considerations, including, among others, the most recent version of the Office of Planning and Research's "Fire Hazard Planning" document. The bill would also require the office to, at the next update of its general plan guidelines, include these provisions, or a reference to these provisions and any other materials related to fire hazards or fire safety it deems appropriate. By imposing new duties on a city or county with regard to reviewing and updating its general plan, the bill would impose a state-mandated local program.

(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required, unless it makes certain findings.

This bill would require the legislative body of a county to make 3 specified findings before approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a state responsibility area or a very high fire hazard severity zone, as defined. The bill would provide that this provision does not supersede the requirements of local ordinances and specified regulations that provide equivalent or more stringent minimum requirements.

(3) The California Environmental Quality Act (CEQA) requires a lead agency to prepare and certify the completion of an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA requires the Office of Planning and Research to prepare and develop guidelines for the implementation of CEQA by public agencies.

This bill would require the office, on or after January 1, 2013, at the time of the next update of the guidelines for implementing CEQA, in cooperation with the Department of Forestry and Fire Protection, to prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist for the inclusion of questions related to fire hazard impacts for projects in state responsibility areas and very high fire hazard severity zones. The

bill would also require the Secretary of the Natural Resources Agency to certify and adopt these recommended proposed changes or amendments.

(4) 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 no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65040.20 is added to the Government Code, to read:

65040.20. The Office of Planning and Research, when it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, shall include the provisions of, or a reference to, paragraph (3) of subdivision (g) of Section 65302, and any other materials related to fire hazards or fire safety it deems appropriate.

SEC. 2. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the

Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the California Emergency Management Agency.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

- (iii) Maintaining the structural and operational integrity of essential public facilities during flooding.
 - (iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.
 - (v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.
- (C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).
- (3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Technical Advice Series" and shall also include all of the following:
- (A) Information regarding fire hazards, including, but not limited to, all of the following:
 - (i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.
 - (ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.
 - (iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.
 - (iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.
 - (v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.
 - (B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.
 - (C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:
 - (i) Avoiding or minimizing the wildfire hazards associated with new uses of land.
 - (ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and

emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) After the initial revision of the safety element pursuant to paragraphs (2) and (3), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(5) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(6) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the California Emergency Management Agency for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(7) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 3. Section 65302.5 of the Government Code is amended to read:

65302.5. (a) At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the California Geological Survey of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may

review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

(b) (1) The draft element of or draft amendment to the safety element of a county or a city's general plan shall be submitted to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county at least 90 days prior to either of the following:

(A) The adoption or amendment to the safety element of its general plan for each county that contains state responsibility areas.

(B) The adoption or amendment to the safety element of its general plan for each city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (b) of Section 51177.

(2) A county that contains state responsibility areas and a city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (b) of Section 51177 shall submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection and every local agency that provides fire protection to territory in the city or county in accordance with the following dates, as specified, unless the local government submitted the element within five years prior to that date:

(A) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 2010.

(B) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2011.

(C) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2012.

(D) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2013.

(E) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2014.

(F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and recommend changes to the planning agency within 60 days of its receipt regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wildland fires.

(B) Methods and strategies for wildland fire risk reduction and prevention within state responsibility areas and very high fire hazard severity zones.

(4) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations, if any, made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or

city council shall communicate in writing to the State Board of Forestry and Fire Protection or the local agency, its reasons for not accepting the recommendations.

(5) If the State Board of Forestry and Fire Protection's or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration the next time it considers amendments to the safety element.

SEC. 4. Section 66474.02 is added to the Government Code, to read:

66474.02. (a) Before approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a state responsibility area or a very high fire hazard severity zone, as both are defined in Section 51177, a legislative body of a county shall make the following three findings:

(1) A finding supported by substantial evidence in the record that the design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code.

(2) A finding supported by substantial evidence in the record that structural fire protection and suppression services will be available for the subdivision through any of the following entities:

(A) A county, city, special district, political subdivision of the state, or another entity organized solely to provide fire protection services that is monitored and funded by a county or other public entity.

(B) The Department of Forestry and Fire Protection by contract entered into pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

(3) A finding that to the extent practicable, ingress and egress for the subdivision meets the regulations regarding road standards for fire equipment access adopted pursuant to Section 4290 of the Public Resources Code and any applicable local ordinance.

(b) This section shall not supersede regulations established by the State Board of Forestry and Fire Protection or local ordinances that provide equivalent or more stringent minimum requirements than those contained within this section.

SEC. 5. Section 21083.01 is added to the Public Resources Code, to read:

21083.01. (a) On or after January 1, 2013, at the time of the next review of the guidelines prepared and developed to implement this division pursuant to subdivision (f) of Section 21083, the Office of Planning and Research, in cooperation with the Department of Forestry and Fire Protection, shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist of the guidelines implementing this division for the inclusion of questions related to fire hazard impacts for projects located on lands classified as state responsibility areas, as defined in Section 4102, and on lands classified as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code.

(b) Upon receipt and review, the Secretary of the Natural Resources Agency shall certify and adopt the recommended proposed changes or amendments prepared and developed by the Office of Planning and Research pursuant to subdivision (a).

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SENATE RULES COMMITTEE

SB 1241

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1241
Author: Kehoe (D)
Amended: 6/25/12
Vote: 21

SENATE NATURAL RESOURCES AND WATER COMM.: 5-2, 3/27/12

AYES: Pavley, Kehoe, Padilla, Simitian, Wolk

NOES: La Malfa, Cannella

NO VOTE RECORDED: Evans, Fuller

SENATE GOVERNANCE & FINANCE COMMITTEE: 7-1, 4/18/12

AYES: Wolk, Dutton, DeSaulnier, Hancock, Hernandez, Kehoe, Liu

NOES: Fuller

NO VOTE RECORDED: La Malfa

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/24/12

AYES: Kehoe, Alquist, Dutton, Lieu, Price, Steinberg

NOES: Walters

SENATE FLOOR: 29-9, 5/30/12

AYES: Alquist, Berryhill, Calderon, Cannella, Corbett, De León,
DeSaulnier, Dutton, Evans, Hancock, Harman, Hernandez, Kehoe, Leno,
Lieu, Liu, Lowenthal, Negrete McLeod, Padilla, Pavley, Price, Rubio,
Simitian, Steinberg, Vargas, Wolk, Wright, Wyland, Yee

NOES: Anderson, Blakeslee, Correa, Emmerson, Fuller, Gaines, Huff, La
Malfa, Walters

NO VOTE RECORDED: Runner, Strickland

ASSEMBLY FLOOR: 55-22, 8/23/12 - See last page for vote

SUBJECT: Land use: general plan: safety element: fire hazard impacts

SOURCE: Author

DIGEST: This bill requires cities and counties to address fire risk in state responsibility areas (SRA) and very high fire hazard severity zones in the safety element of their general plans upon the next revision of the housing element, and requires cities and counties to make certain findings regarding available fire protection and suppression services before approving a tentative map or parcel map.

Assembly Amendments extends the operative date in the Senate provision requiring cities and counties to review and update their safety element from January 1, 2013 to January 1, 2014.

ANALYSIS: The Board of Forestry (Board) is required to identify all lands where the state has the primary financial responsibility for preventing and suppressing fires. These SRAs are generally lands that are (or were, prior to development) largely covered by trees, brush, and grass and other undeveloped lands. All other lands are primarily the financial responsibility of local (local responsibility areas, LRAs) or federal agencies.

The Director of the Department of Forestry and Fire (CDF) is required identify fire hazard severity zones in LRAs, although a local agency has discretion to alter these zones for more effective fire protection.

Every city and county must adopt a general plan with seven required elements on land use, circulation, housing, conservation, open space, noise, and safety. The purpose of the general plan is to guide all major land use decisions, which are required to be consistent with the plan. Existing law requires the housing element to be updated on a specific schedule, depending on geographic location. Existing law also requires local agencies to submit the safety element of their general plan to the Board for review. The Board may offer recommendations for changes regarding the use of SRA or very high fire hazard severity zone lands in order to protect life, property, and natural resources from unreasonable wildland fire risks. The local agency must consider the Board's recommendations but they are not required to adopt them.

The Subdivision Map Act regulates how local officials approve the conversion of larger parcels into marketable lots. Subdivisions of more than

four lots require a city or county to adopt a tentative map while smaller subdivisions usually require a parcel map.

The Office of Planning and Research (OPR) develops guidelines for the implementation of the California Environmental Quality Act (CEQA Guidelines), including the criteria lead agencies use to determine whether an environmental impact report is needed. OPR is required to review the CEQA guidelines every two years for possible updates.

This bill:

1. Requires a city or county, when it next revises its housing element on or after January 1, 2014, to also update the safety element to address the risk for fire on lands classified as SRA or very high fire hazard severity zones. The update must include:
 - A. Consideration of guidance given in the OPR's Fire Hazard Planning document.
 - B. Specific information regarding fire hazards.
 - C. A set of goals, policies, and objectives to protect the community from unreasonable wildfire risks and a set of feasible implementation measures to achieve these goals, policies, and objectives.
2. Requires a city or county to make the following findings before approving a tentative map or parcel map:
 - A. That the design and location of each lot are consistent with any applicable regulations adopted by the board regarding defensible space requirements.
 - B. That structural fire protection and suppression services will be available for the subdivision.
 - C. That the subdivision meets the regulations regarding road standards for fire equipment, to the extent practicable.
3. Requires OPR, as part of its next review of CEQA guidelines, to cooperate with CDF in recommending changes to the CEQA guidelines

regarding fire hazard impacts on lands classified as SRA and very high fire hazard severity zones. These recommendations shall be reviewed by the Secretary of the Natural Resources Agency, and if certified, incorporated into the CEQA guidelines.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, this bill contains:

- Ongoing General Fund (GF) cost of approximately \$200,000 annually, from 2013-14 through 2018-19, to the Board of Forestry and Fire Protection to review approximately 50 safety element updates annually and to develop recommended changes to them.

(CAL FIRE reports it will incur one-time costs of \$1.2 million assistance to local governments in the preparation of their safety elements. Such assistance is not explicitly required by this bill. CAL FIRE, however, contends such assistance will be necessary to ensure the bill is implemented effectively.)

- Onetime GF cost of approximately \$150,000 to \$200,000, in 2012-13 or later, to OPR to prepare and develop proposed changes or amendments to the CEQA guidelines for the inclusion of questions related to fire hazard impacts for projects on land classified as SRA or as very high fire hazard severity zones.

SUPPORT: (Verified 8/27/12)

American Planning Association of California
California Fire Chiefs Association
California Native Plant Society
California Professional Firefighters
Endangered Habitats League
Fire Districts Association of California
Sierra Club, California

ARGUMENTS IN SUPPORT: The California Fire Chiefs Association and the Fire Districts Association of California support the front-end planning provisions contained in this bill. The California Professional Firefighters encourage the planning discussions that occur at the local level that focus on fire prevention efforts in vulnerable areas before new building

Item #6

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CONTINUED

sites are approved. This organization contends that the already challenging and risky job of firefighting would be made less difficult while also enhancing the public's safety. The Endangered Habitats League, a southern California conservation group, supports all of the provisions in this bill as measures that would help California plan prudently for fire and reduce risks to life, property, and the environment.

ASSEMBLY FLOOR: 55-22, 8/23/12

AYES: Achadjian, Alejo, Allen, Ammiano, Atkins, Beall, Bill Berryhill, Block, Blumenfield, Bradford, Brownley, Buchanan, Butler, Charles Calderon, Campos, Carter, Cedillo, Chesbro, Davis, Dickinson, Eng, Feuer, Fletcher, Fong, Fuentes, Furutani, Galgiani, Gatto, Gordon, Hall, Hayashi, Hill, Huber, Hueso, Huffman, Jeffries, Lara, Bonnie Lowenthal, Ma, Mendoza, Mitchell, Monning, Pan, Perea, V. Manuel Pérez, Portantino, Skinner, Smyth, Solorio, Swanson, Torres, Wieckowski, Williams, Yamada, John A. Pérez

NOES: Conway, Donnelly, Beth Gaines, Garrick, Gorell, Grove, Hagman, Halderman, Harkey, Jones, Knight, Logue, Mansoor, Miller, Morrell, Nestande, Nielsen, Norby, Olsen, Silva, Valadao, Wagner

NO VOTE RECORDED: Bonilla, Cook, Roger Hernández

CTW:nd 8/27/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

DATE: June 22, 2017

TO: Planners Technical Advisory Committee

FROM: Eric Wolf, Senior Management Analyst

RE: **SENATE BILL 649 (HUESO), WIRELESS TELECOMMUNICATIONS FACILITIES**

RECOMMENDED ACTION

For information.

BACKGROUND

Small cell telecommunication sites are defined as low powered wireless base stations, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. Providers use small cells to cover areas that present capacity and coverage challenges. Unlike larger macrocell towers, small cells are about 40 feet tall as stand-alone systems, or can be attached to existing infrastructure.

Existing law dictates various aspects of control over small cell sites, including:

- Limitations, preemptions and preservation of local zoning authority in relation to the siting of personal wireless service facilities;
- Establishes that the placement, construction, and modification of personal wireless service facilities by local government shall not prohibit or unreasonably discriminate among providers;
- Provides that a local government may not deny, and shall approve, any eligible request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the site;
- Establishes a framework, process, and procedure governing the attachment of telecommunications facilities to investor-owned utility poles;
- Establishes a framework, process, fees, and procedures governing the attachment of telecommunications facilities to municipal utility poles;
- Provides that a wireless telecommunications collocation facility shall be a permitted use not subject to a city discretionary permit if it satisfies several requirements.

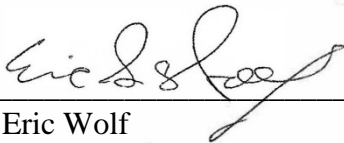
SENATE BILL 649


This bill establishes a statewide framework for streamlining the permitting and siting process of small cell wireless facilities that meet specified requirements. It declares that small cells have a significant economic impact in California and are not a municipal affair but are a matter of statewide concern. Specifically, this bill:

- Requires an administrative permit, in lieu of a discretionary permit;

- Requires cost-based fees (based on the FCC formula), in lieu of market pricing;
- Prohibits a city from precluding the leasing or licensing of its vertical infrastructure located in a public right-of-way or public utility easement;
- Requires permits for wireless telecommunications facilities to be automatically renewed for equivalent durations;
- Defines small cell according to a dimensional (volume) definition and exempts support equipment from that calculation.

SB 649 is supported by the telecommunications industry and many chambers of commerce across the state. Opposition comes from cities, the State Association of Counties, the League of California Cities, and the American Planning Association.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – SB 649 (Hueso)
- Attachment B – SB 649 (Hueso) Legislative Analysis

AMENDED IN SENATE MAY 2, 2017
AMENDED IN SENATE MARCH 28, 2017

SENATE BILL

No. 649

Introduced by Senator Hueso
(Principal coauthor: Assembly Member Quirk)
(Coauthor: Senator Dodd)

February 17, 2017

An act to amend Section 65964 of, and to add Section 65964.2 to, the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 649, as amended, Hueso. Wireless telecommunications facilities. Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit.

This bill would provide that a small cell is a permitted use, ~~not~~ subject *only* to a *specified permitting process adopted by a city or county discretionary permit, county*, if the small cell meets specified requirements. By imposing new duties on local agencies, this bill would impose a state-mandated local program. The bill would authorize a city or county to require an ~~administrative permit~~ *encroachment permit or a building permit, and any additional ministerial permits*, for a small cell, as specified. The bill would define the term "small cell" for these purposes.

Under existing law, a city or county, as a condition of approval of an application for a permit for construction or reconstruction of a development project for a wireless telecommunications facility, may not require an escrow deposit for removal of a wireless telecommunications facility or any component thereof, unreasonably limit the duration of any permit for a wireless telecommunications facility, or require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county, as specified.

This bill would require permits for these facilities to be renewed for equivalent durations, as specified.

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 no reimbursement is required by this act for a specified reason.

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. The Legislature finds and declares that, to ensure
2 that communities across the state have access to the most advanced
3 wireless communications technologies and the transformative
4 solutions that robust wireless connectivity enables, such as Smart
5 Communities and the Internet of Things, California should work
6 in coordination with federal, state, and local officials to create a
7 statewide framework for the deployment of advanced wireless
8 communications infrastructure in California that does all of the
9 following:
- 10 (a) Reaffirms local governments' historic role and authority
11 with respect to wireless communications infrastructure siting and
12 construction generally.
- 13 (b) Reaffirms that deployment of telecommunications facilities
14 in the rights-of-way is a matter of statewide concern, subject to a
15 statewide franchise, and that expeditious deployment of
16 telecommunications networks generally is a matter of both
17 statewide and national concern.
- 18 (c) Recognizes that the impact on local interests from individual
19 small wireless facilities will be sufficiently minor and that such

1 deployments should be a permitted use statewide and should not
2 be subject to discretionary zoning review.

3 (d) Requires expiring permits for these facilities to be renewed
4 so long as the site maintains compliance with use conditions
5 adopted at the time the site was originally approved.

6 (e) Requires providers to obtain all applicable building or
7 encroachment permits and comply with all related health, safety,
8 and objective aesthetic requirements for small wireless facility
9 deployments on a ministerial basis.

10 (f) Grants providers fair, reasonable, nondiscriminatory, and
11 nonexclusive access to locally owned utility poles, ~~street lights,~~
12 *streetlights*, and other suitable host infrastructure located within
13 the public right-of-way and in other local public places such as
14 stadiums, parks, campuses, hospitals, transit stations, and public
15 buildings consistent with all applicable health and safety
16 requirements, including Public Utilities Commission General Order
17 95.

18 (g) Provides for full recovery by local governments of the costs
19 of attaching small wireless facilities to utility poles, ~~street lights,~~
20 *streetlights*, and other suitable host infrastructure in a manner that
21 is consistent with existing federal and state laws governing utility
22 pole attachments generally.

23 (h) Permits local governments to charge wireless permit fees
24 that are fair, reasonable, nondiscriminatory, and cost based.

25 (i) Advances technological and competitive neutrality while not
26 adding new requirements on competing providers that do not exist
27 today.

28 SEC. 2. Section 65964 of the Government Code is amended
29 to read:

30 65964. As a condition of approval of an application for a permit
31 for construction or reconstruction for a development project for a
32 wireless telecommunications facility, as defined in Section 65850.6,
33 a city or county shall not do any of the following:

34 (a) Require an escrow deposit for removal of a wireless
35 telecommunications facility or any component thereof. However,
36 a performance bond or other surety or another form of security
37 may be required, so long as the amount of the bond security is
38 rationally related to the cost of removal. In establishing the amount
39 of the security, the city or county shall take into consideration

1 information provided by the permit applicant regarding the cost
2 of removal.

3 (b) Unreasonably limit the duration of any permit for a wireless
4 telecommunications facility. Limits of less than 10 years are
5 presumed to be unreasonable absent public safety reasons or
6 substantial land use reasons. However, cities and counties may
7 establish a build-out period for a site. A permit shall be renewed
8 for an equivalent duration unless the city or county makes a finding
9 that the wireless telecommunications facility does not comply with
10 the codes and permit conditions applicable at the time the permit
11 was initially approved.

12 (c) Require that all wireless telecommunications facilities be
13 limited to sites owned by particular parties within the jurisdiction
14 of the city or county.

15 SEC. 3. Section 65964.2 is added to the Government Code, to
16 read:

17 65964.2. (a) A small cell shall be a permitted use ~~not~~ subject
18 *only to a permitting process adopted by a city or county*
19 ~~discretionary permit pursuant to subdivision (b)~~ if it satisfies the
20 following requirements:

21 (1) The small cell is located in the public right-of-way in any
22 zone or in any zone that includes a commercial or industrial use.

23 (2) The small cell complies with all applicable ~~state federal,~~
24 ~~state,~~ and local health and safety ~~regulations.~~ *regulations, including*
25 *compliance with the federal Americans with Disabilities Act of*
26 *1990 (42 U.S.C. Sec. 12101 et seq.).*

27 (3) The small cell is not located on a fire department facility.

28 (b) (1) A city or county may require that the small cell be
29 approved pursuant to ~~a single administrative permit~~ *a building*
30 *permit or its functional equivalent in connection with placement*
31 *outside of the public right-of-way or an encroachment permit or*
32 *its functional equivalent issued consistent with Sections 7901 and*
33 *7901.1 of the Public Utilities Code for the placement in public*
34 *rights-of-way, and any additional ministerial permits, provided*
35 ~~that the permit is all permits are issued within the time frames~~
36 ~~timeframes~~ *required by state and federal law.*

37 (2) ~~An administrative permit~~ *Permits issued pursuant to this*
38 *subdivision may be subject to the following:*

39 (A) The same administrative permit requirements as *for* similar
40 construction projects *and* applied in a nondiscriminatory manner.

1 (B) ~~The submission of~~ *A requirement to submit* additional
2 information showing that the small cell complies *with* the Federal
3 Communications Commission’s regulations concerning radio
4 frequency emissions referenced in Section 332(c)(7)(B)(iv) of
5 Title 47 of the United States Code.

6 (C) *A condition that the applicable permit may be rescinded if*
7 *construction is not substantially commenced within one year.*
8 *Absent a showing of good cause, an applicant under this section*
9 *may not renew the permit or resubmit an application to develop*
10 *a small cell at the same location within six months of rescision.*

11 (D) *A condition that small cells no longer used to provide*
12 *service shall be removed at no cost to the city or county.*

13 (E) *Compliance with building codes, including building code*
14 *structural requirements.*

15 (F) *A condition that the applicant pay all electricity costs*
16 *associated with the operation of the small cell.*

17 (G) *A condition to comply with feasible design and collocation*
18 *standards on a small cell to be installed on property not in the*
19 *right-of-way.*

20 (3) ~~The administrative permit~~ *Permits issued pursuant to this*
21 *subdivision shall not be subject to:*

22 (A) *Requirements to provide additional services, directly or*
23 *indirectly, including, but not limited to, in-kind contributions*
24 *from the applicant such as reserving fiber, conduit, or pole space.*

25 (B) *The submission of any additional information other than*
26 *that required of similar construction projects, except as specifically*
27 *provided in this section.*

28 (C) *Limitations on routine maintenance or the replacement of*
29 *small cells with small cells that are substantially similar, the same*
30 *size or smaller.*

31 (D) ~~The regulation of any antennas~~ *micro wireless facilities*
32 ~~mounted on cable strands.~~ *a span of wire.*

33 (c) *A city or county shall not preclude the leasing or licensing*
34 *of its vertical infrastructure located in public right-of-way or public*
35 *utility easements under the terms set forth in this paragraph.*
36 *Vertical infrastructure shall be made available for the placement*
37 *of small cells under fair and reasonable fees, terms, and conditions*
38 ~~and offered on a nondiscriminatory basis for small cells. Fees shall~~
39 ~~be cost-based, and shall not exceed the lesser of either of the~~
40 ~~following:~~ *conditions, which may include feasible design and*

1 *collocation standards. A city or county may reserve capacity on*
 2 *vertical infrastructure if the city or county adopts a resolution*
 3 *finding, based on substantial evidence in the record, that the*
 4 *capacity is needed for projected city or county uses. Fees shall be*
 5 *tiered or flat and within a range of \$100 to \$850 per small cell*
 6 *per year, indexed for inflation from the effective date of this section.*

7 ~~(1) The costs of ownership of the percentage of the volume of~~
 8 ~~the capacity of the vertical infrastructure rendered unusable by a~~
 9 ~~small cell.~~

10 ~~(2) The rate produced by applying the formula adopted by the~~
 11 ~~Federal Communications Commission for telecommunications~~
 12 ~~pole attachments in Section 1.1409(c)(2) of Part 47 of the Code~~
 13 ~~of Federal Regulations.~~

14 (d) A city or county shall not ~~unreasonably~~ discriminate in the
 15 ~~leasing or licensing of~~ *against the deployment of a small cell on*
 16 *property owned by the city or county and shall make space*
 17 *available on property not located in the public right-of-way owned*
 18 *or operated by the city or county for installation of a small cell. A*
 19 *city or county shall authorize the installation of a small cell on*
 20 *property owned or controlled by the city or county not located*
 21 *within the public right-of-way to the same extent the city or county*
 22 *permits access to that property for under terms and conditions that*
 23 *are no less favorable than the terms and conditions under which*
 24 *the space is made available for comparable commercial projects*
 25 *or uses. These installations shall be subject to reasonable and*
 26 *nondiscriminatory rates, terms, and conditions. conditions, which*
 27 *may include feasible design and collocation standards.*

28 (e) *Nothing in this section shall be construed to alter, modify,*
 29 *or amend any franchise or franchise requirements under state or*
 30 *federal law.*

31 ~~(e)~~

32 (f) For purposes of this section, the following terms have the
 33 following meanings:

34 (1) (A) “Small cell” means a wireless telecommunications
 35 facility, as defined in Section 65850.6, using licensed or unlicensed
 36 spectrum that meets the following qualifications:

37 (i) ~~Any individual antenna, All antennas on the structure,~~
 38 ~~excluding the associated equipment, is individually no more than~~
 39 ~~three cubic feet in volume, and all antennas on the structure total~~

1 no more than six cubic feet in volume, whether in a single array
2 or separate.

3 (ii) (I) The associated equipment on pole structures does not
4 exceed 21 cubic feet for poles that can support fewer than three
5 providers or 28 cubic feet for pole collocations that can support at
6 least three providers, or the associated equipment on nonpole
7 structures does not exceed 28 cubic feet for collocations that can
8 support fewer than three providers or 35 cubic feet for collocations
9 that can support at least three providers. *provided that any*
10 *individual piece of associated equipment or pole structures do not*
11 *exceed nine cubic feet.*

12 (II) The following types of associated ancillary equipment are
13 not included in the calculation of equipment volume:

- 14 (ia) Electric meters and any required pedestal.
- 15 (ib) Concealment elements.
- 16 (ic) Any telecommunications demarcation box.
- 17 (id) Grounding equipment.
- 18 (ie) Power transfer switch.
- 19 (if) ~~Cut-off~~ Cutoff switch.
- 20 (ig) Vertical cable runs for the connection of power and other
21 services.

22 (B) *“Small cell” includes a micro wireless facility that is no*
23 *larger than 24 inches long, 15 inches in width, 12 inches in height,*
24 *and that has an exterior antenna, if any, no longer than 11 inches.*

25 ~~(B)~~
26 (C) *“Small cell” does not include communications infrastructure*
27 *extending beyond the telecommunications demarcation box. either*
28 *of the following:*

- 29 (i) *Coaxial or fiber optic cables that do not exclusively provide*
30 *service to that small cell.*
- 31 (ii) *Wireless facilities placed in any historic district listed in*
32 *the National Park Service Certified State or Local Historic*
33 *Districts or in any historical district listed on the California*
34 *Register of Historical Resources or placed in coastal zones subject*
35 *to the jurisdiction of the California Coastal Commission.*

36 (2) (A) *“Vertical infrastructure” means all poles or similar*
37 *facilities owned or controlled by a city or county that are in the*
38 *public right-of-way or public utility easements and meant for, or*
39 *used in whole or in part for, communications service, electric*
40 *service, lighting, traffic control, signage, or similar functions.*

1 (B) For purposes of this paragraph, the term “controlled”
 2 means having the right to allow subleases or sublicensing. A city
 3 or county may impose feasible design or collocation standards for
 4 small cells placed on vertical infrastructure, including the
 5 placement of associated equipment on the vertical infrastructure
 6 or the ground.

7 (g) Existing agreements regarding the leasing or licensing of
 8 vertical infrastructure entered into prior to the effective date of
 9 this section remain in effect, subject to applicable termination
 10 provisions. The operator of a small cell may accept the rates of
 11 this section for small cells that are the subject of an application
 12 submitted after the agreement is terminated pursuant to the terms
 13 of the agreement.

14 (h) Nothing in this section shall be construed to impose an
 15 obligation to charge a use fee different than those authorized by
 16 Part 2 (commencing with Section 9510) of Division 4.8 of the
 17 Public Utilities Code on a local publicly owned electric utility.

18 (f)

19 (i) The Legislature finds and declares that small cells, as defined
 20 in this section, have a significant economic impact in California
 21 and are not a municipal affair as that term is used in Section 5 of
 22 Article XI of the California Constitution, but are a matter of
 23 statewide concern.

24 SEC. 4. No reimbursement is required by this act pursuant to
 25 Section 6 of Article XIII B of the California Constitution because
 26 a local agency or school district has the authority to levy service
 27 charges, fees, or assessments sufficient to pay for the program or
 28 level of service mandated by this act, within the meaning of Section
 29 17556 of the Government Code.

O

THIRD READING

Bill No: SB 649
Author: Hueso (D), et al.
Amended: 5/2/17
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-0, 4/4/17
AYES: Hueso, Morrell, Bradford, Cannella, Hertzberg, Hill, McGuire, Skinner,
Stern, Vidak, Wiener

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 4/26/17
AYES: McGuire, Nguyen, Beall, Hernandez, Hertzberg, Lara, Moorlach

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/25/17
AYES: Lara, Beall, Bradford, Hill, Nielsen, Wiener
NO VOTE RECORDED: Bates

SUBJECT: Wireless telecommunications facilities

SOURCE: CTIA

DIGEST: This bill establishes a statewide framework for streamlining the permit siting process of small cell wireless facilities that meet specified requirements. Specifically, this bill requires an administrative permit in lieu of a discretionary permit, limits fees to between \$100 and \$850 for small cell installations in the utility right-of-way, ensures access to most vertical infrastructure in the utility right-of-way and also within a commercial or industrial zone. This bill also requires permits for wireless telecommunications facilities would be automatically renewed for equivalent durations, as specified.

ANALYSIS:

Existing law:

- 1) Establishes specified limitations, preemptions and preservation of local zoning authority in relation to the siting of personal wireless service facilities as part of the many provisions of the Federal Telecommunication Act of 1996. (Other provisions, see Policy Committee Analyses) (47 United States Code §332)
- 2) Limits the consideration of the environmental effects of radio frequency emissions by the city or county to that authorized by Section 332(c)(7) of Title 47 of the United States Code, as specified. (California Government Code §65850.6)
- 3) Provides that no state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (47 United States Code §253)
- 4) Provides that a state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such a tower or base station. (47 United States Code §1455 (a))
- 5) Establishes a framework, process, and procedures governing the attachment of telecommunications facilities to investor-owned utility poles, providing the California Public Utilities Commission (CPUC) to establish and enforce rates, terms and conditions for pole attachments. (Public Utilities Code §767.5)
- 6) Establishes a framework, process, fees, and procedures governing the attachment of telecommunications facilities to municipal utility poles, providing for safety and reasonable terms and conditions. (Public Utilities Code §9510 et seq.)
- 7) Provides that a wireless telecommunications collocation facility shall be a permitted use not subject to a city or county discretionary permit if it satisfies several requirements, as specified. (California Government Code §65850.6)

This bill:

- 1) Defines a “small cell” as a wireless telecommunications facility that meets the following qualifications:

- a) All antennas on the structure, excluding associated equipment total no more than six cubic feet in volume, whether in a single or separate array.
 - b) The associated equipment on pole structures does not exceed 21 cubic feet, provided any individual piece does not exceed nine cubic feet. The calculation of equipment volume excludes specified ancillary equipment.
- 2) Specifies that a small cell includes a micro wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and that has an exterior antenna no longer than 11 inches.
 - 3) Specifies that a small cell does not include coaxial or fiber optic cables that do not exclusively provide service to the cell, or wireless facilities placed in a specified historic district or coastal zone.
 - 4) Requires a small cell to be a permitted use, subject only to specified requirements or conditions, if it satisfies the following requirements:
 - a) The small cell is located in the public right-of-way in any zone or in any zone that includes a commercial or industrial use.
 - b) The small cell complies with all applicable federal, state, and local health and safety regulations, as specified.
 - c) The small cell is not located on a fire department facility.
 - 5) Authorizes a city or county to require that the small cell be approved pursuant to a building permit in connection with placement outside the public right of way, or a specified encroachment permit, and any additional ministerial permits, provided all permits are issued within specified timeframes.
 - 6) Prohibits permits from being subject to:
 - a) Provision of additional services, including in-kind contributions from the applicant such as reserving fiber, conduit, or pole space.
 - b) The submission of any additional information other than that required of similar construction projects, except as otherwise provided in the bill.
 - c) Limitations on routine maintenance or the replacement of small cells with small cells that are substantially similar, the same size, or smaller.
 - d) The regulation of any micro wireless facilities mounted on a span of wire.
 - 7) Prohibits a city or county from precluding the leasing or licensing of its vertical infrastructure located in the public right of way or public utility

- easements. Vertical infrastructure is defined as all poles or similar facilities owned or controlled by a city or county that are in the public right of way or utility easements and meant for communications service, electric service, lighting, traffic control, or similar functions.
- 8) Requires a city or county to make its vertical infrastructure available for the placement of small cells under fair and reasonable fees, terms, and conditions, which may include feasible design and collocation standards.
 - 9) Authorizes a city or county to reserve capacity on vertical infrastructure if it adopts a resolution that capacity is needed for projected city or county use.
 - 10) Requires fees to be tiered or flat and within a range of \$100 to \$850 per small cell per year, indexed for inflation from this bill's effective date.
 - 11) Prohibits a city or county from discriminating against the deployment of a small cell on property owned by the city or county, and require it to make space available on terms that are at least as favorable as those provided for comparable commercial projects or uses.
 - 12) Specifies that nothing in the bill would alter, modify, or amend any franchise or franchise requirements under state or federal law.
 - 13) Specifies that existing agreements regarding the leasing or licensing of vertical infrastructure remain in effect, subject to applicable termination provisions.
 - 14) Requires automatic renewal of permits for telecommunications facilities, unless a city or county makes a finding that the facility does not comply with codes and conditions in place at the time the permit was originally approved.

Background

Over the past decade, there has been an explosion of wireless devices in the marketplace, from cell phones, tablets, health monitors, and smart appliances. Satisfying the consumer demand for efficient and reliable wireless communications is largely dependent on infrastructure that has required a network of large macro cell towers (most over 200 feet tall). These large structures have dotted the landscape in various shapes and forms, from a very noticeable large antenna to something disguised as a palm tree.

Small Cell. Small cells are low-powered wireless base stations that function like cells in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. Wireless service providers often use small cells to provide connectivity to their subscribers in areas that present capacity and coverage challenges to traditional wide-area macrocell networks, such as coverage gaps created by buildings, tower siting difficulties, and challenging terrain. Each small cell can only work with a corresponding wireless service provider. Unlike larger macrocell large towers, small cells will need to be deployed at greater volumes in more concentrated areas. These smaller wireless facilities can augment the capacity of the wireless bandwidth of the macrocell towers.

Planning and Zoning. Existing law, the Planning and Zoning Law, requires cities and counties to adopt a general plan and provides for the adoption of zoning ordinance that regulate the use of buildings, structures, and land, among other things. The Permit Streamlining Act requires public agencies to act fairly and promptly on applications for development permits. Providers of wireless telecommunications services must apply to cities and counties for permits to build structures that support wireless telecommunications equipment, like antennae and related devices. Similarly, wireless carriers must seek local approval to place additional telecommunications equipment on structures and facilities where that equipment already exists, which are referred to as collocations.

Existing law, as enacted by SB 1627 (Kehoe, Chapter 676, Statutes of 2006), requires local governments to approve collocations through ministerial processes, and prohibits local governments from limiting the duration of permits for wireless sites to less than 10 years, absent good reason. Existing law, as enacted by AB 57 (Quirk, Chapter 684, Statutes of 2015), specifies that a collocation or siting application for a wireless telecommunications facility is deemed approved if a local government does not act on a permit application within reasonable time periods specified in federal regulations.

Telecommunications companies have the right to access utility poles in the public right-of-way, governed by a set of state and federal regulations. State law establishes a framework, process, and procedures governing the attachment of telecommunications facilities to investor-owned utility poles and municipal utility poles, providing the CPUC the authority to establish and enforce rates, terms and conditions for pole attachments. Telecommunications companies are authorized to erect poles and attach to investor-owned and municipal utility poles under specified cost-based rates. Local governments may not block utility pole attachments, but existing law authorizes them to regulate the time, manner, and

place of pole attachments in the public right-of-way. In addition, investor owned utilities and municipal utilities can only charge cost-based rates for attaching to their utility poles.

These restrictions do not apply to other publicly-owned infrastructure in the right-of-way, such as light poles and streetlights, or outside of the right of way. In those cases, local governments can continue to impose conditions on many types of wireless facilities and negotiate payments for the use of their infrastructure. Since the number of small cells needed to cover an area is much higher than for traditional wireless facilities, carriers and cities have negotiated agreements and streamlined permit processes for the deployment of small cells that require lease payments to use city infrastructure. Currently, these agreements are negotiated on an ad hoc basis, and, as such, lease rates can vary significantly among cities from a hundred dollars to thousands of dollars.

Home Rule. Local officials' first duty is to protect the interests of their constituents. They have broad authority to regulate activities to preserve the public welfare, and they have developed processes in accordance with that duty for permitting wireless telecommunications facilities. Some jurisdictions impose more conditions than others due to specific local circumstances, and the FCC has recognized this need. By making small cells permitted uses, SB 649 extends by-right development to small cells, and it prohibits local governments from establishing discretionary permitting processes in rights of way and commercial and industrial zones. SB 649 requires local governments to offer up their vertical infrastructure in the rights of way and commercial and industrial zones for use by other entities and removes their ability to charge fair rent by capping lease fees for vertical infrastructure to an amount that is between \$100 and \$850.

Environmental Health Effects. Some of the opponents of this bill have raised concerns regarding the health impacts from radio frequency/microwave radiation associated with wireless communications. These commenters present several studies, as well as a California Medical Association resolution supporting efforts to reevaluate microwave safety exposure and efforts to implement new safety exposure limits for wireless devices to a level that do not cause harm. While these comments raise very serious concerns, federal law, limits the consideration of the environmental effects of radio frequency emissions by states and local governments in so far as a proposed project is in compliance with FCC requirements. However, those who oppose this bill out of concern for the health impacts of wireless technologies are not likely to be satisfied with the standards the FCC has established.

Merits Correction. The language in the bill related to the maximum size of the small cell equipment attached to a pole merits additional language related to the maximum size of the associated equipment not on the pole. The author has agreed to work with the Committee on Governance and Finance to make this correction should the bill move forward.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown, potentially reimbursable mandate costs, to the extent that the Commission on State Mandates determines that certain costs incurred by local governments are not recoverable by fees. Existing law, as enacted by AB 1027 (Buchanan, Chapter 580, Statutes of 2011) requires a publicly owned utility to make appropriate space and capacity on its utility poles and support structures available for use by a communication provider. That measure authorized local entities to charge an annual fee for use of a pole, and limited the fee to the annual cost of ownership of the proportion of the pole dedicated to the telecommunications equipment. Any costs incurred by a public utility that exceeded the amount of fees charged for pole attachments could be passed on to utility customers.

Cities and counties currently negotiate lease rates for small cell attachments on publicly owned vertical infrastructure that is market based, and many local governments may use excess lease revenues to pay for other public services or to subsidize the extension of wireless service in underserved areas. This bill limits the fees that a city or county may charge for the installation of a small cell telecommunications facility on publicly owned vertical infrastructure to a range of \$100 to \$850 per small cell per year. Since these rates are much lower than what some current agreements provide, many local governments will lose significant discretionary revenues. Staff notes that loss of local revenues does not, on its own, constitute a reimbursable mandate.

To the extent that the Commission on State Mandates determines that this bill imposes a higher level of service on cities and counties, and the fees specified in the bill are insufficient to fully offset a city or county's costs to accommodate the attachment of small cells to vertical infrastructure, this bill may be deemed a reimbursable mandate. This bill would require cities and counties to negotiate lease rates with wireless service providers (currently an optional activity), draft master agreements, and determine actual annual costs associated with leasing space on a particular pole or set of poles.

SUPPORT: (Verified 5/30/17)

CTIA (source)
59DaysOfCode
American Indian Chamber of Commerce of California
Asian Pacific Islander American Public Affairs Assn.
Asian Resources Inc.
AT&T
Berkeley Chamber of Commerce
Black Business Association
California Asian Chamber of Commerce
California Asian Pacific Chamber of Commerce
California Foundation for Independent Living Centers
California Friday Night Live Partnership
California Hispanic Chamber of Commerce
California Manufacturers & Technology Association
California Probation, Parole and Correctional Assn
California State Conference of the National Association
of Advancement of Colored People
California State Sheriffs' Association
California Urban Partnership
California Utilities Emergency Association
CALinnovates
Carlsbad Chamber of Commerce
Carmel Valley Chamber of Commerce
Cerritos Regional Chamber of Commerce
Chinese American Association of Solano County
Community Technology Network
Community Women Vital Voices
Concerned Citizens Community Involvement
Congress of California Seniors
Council of Asian Pacific Islanders Together for
Advocacy and Leadership
Council on American-Islamic Relations, California
Disability Rights Education and Defense Fund
Downtown San Diego Partnership
East Bay Leadership Council
Elderly Foundation
El Dorado County Chamber of Commerce
Eskaton Foundation
Exceptional Parents Unlimited

Fresno Area Hispanic Foundation
Fresno Center for New Americans
Fresno Metro Black Chamber of Commerce
Fundacion Pro Joven Talento Salvadoreno
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Los Angeles African American Chamber of Commerce
Greater Sacramento Urban League
Hacker Lab
Hispanic Chamber of e-Commerce
Hispanic Heritage Foundation
I/O Labs
Imagine H2O
InBiz Latino-North County Hispanic Chamber
Invictus Foundation
Jobs and Housing Coalition
Krimson and Kreme, Inc.
Lake County Sheriff
Latin Business Association
Latino Council
Latino Environmental Advancement & Policy Project
Lifestyle Stroke Foundation
Lighthouse Counseling & Family Resource Center
LIME Foundation
Lincoln Area Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Urban League
Marjaree Mason Center
Meeting of the Minds
Modesto Chamber of Commerce
Monterey County Business Council
Museum of the African Diaspora
National Association of Advancement of Colored People
– Eureka
National Association of Advancement of Colored People
– Inglewood/South Bay
National Association of Advancement of Colored People
– Los Angeles
National Association of Advancement of Colored People
– North San Diego

National Association of Advancement of Colored People
– Riverside
National Association of Hispanic Real Estate
Professionals – Sacramento
National City Public Safety Foundation
National Latina Business Women Association of Los Angeles
Oakland Metropolitan Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Orange County Hispanic Chamber of Commerce
Organization of Chinese Americans
Pacific Grove Chamber of Commerce Board of Director
Peace Officers Research Association of California
Puertas Abiertas Community Resource Center
PulsePoint
Rancho Cordova Chamber of Commerce
Russian American Media
Sabio Enterprises Inc.
Sacramento Asian Pacific Chamber of Commerce
Sacramento Black Chamber of Commerce
Sacramento Hispanic Chamber of Commerce
Sacramento Metropolitan Chamber of Commerce
Sacramento Regional Conservation Corps
Salvadoran American Leadership and Educational Fund
San Diego County Hispanic Chamber of Commerce
San Diego North Economic Development Council
San Diego Regional Economic Development Corp
San Joaquin Pride Center
San Ysidro Chamber of Commerce
Santa Ana Chamber of Commerce
Silicon Valley Leadership Group
Slavic American Chamber
Society for the Blind
Solano Community College Educational Foundation
South Bay Association of Chamber of Commerce
Southeast Community Development Corporation
Southern California Hispanic Chamber of Commerce
Southern Christian Leadership Conference of Southern California
Sprint
T-Mobile US

The East Los Angeles Community Union
The Arc California
The National Association of Hispanic Real Estate Professional
The Observer Media Group
The Urban Hive
Torrance Area Chamber of Commerce
Tulare Kings Hispanic Chamber of Commerce
United Policyholders
Urban Corps of San Diego County
Urban League of San Diego County
Verizon
Veteran's Association of North County
Voluntary Organizations Active in a Disaster
Volunteers of America Southwest
WEAVE, Inc.
Wireless Infrastructure Association
Women's Intercultural Network

OPPOSITION: (Verified 5/30/17)

Association of Environmental Professionals
California Chapter of the American Planning Association
California Chapters of the American Public Works
Association
California Municipal Utilities Association
California State Association of Counties
City and County of San Francisco
Cities of Albany, Arcadia, Azusa, Bakersfield, Benicia, Beverly Hills, Big Bear
Lake, Buena Park, Burbank, Camarillo, Campbell, Capitola, Carpinteria, Chino
Hills, Citrus Heights, Claremont, Cloverdale, Concord, Corona, Coronado,
Culver City, Diamond Bar, Dublin, Eastvale, El Centro, Elk Grove, Emeryville,
Encinitas, Fontana Fountain Valley, Fremont, Fullerton, Hayward, Hermosa
Beach, Hesperia, Huntington Beach, Indio, Indian Wells, Inglewood, Irvine, La
Cañada, La Habra, La Quinta, La Verne, Lafayette, Laguna Beach, Laguna Hills,
Lake Elsinore, Lake Forest, Lakeport, Lakewood, Lodi, Long Beach, Los
Alamitos, Lomita, Manteca, Merced, Mission Viejo, Modesto, Monterey,
Moorpark, Moreno Valley, Morgan Hill, Murrieta, National City, Nevada City,
Newport Beach, Norwalk, Oakley, Oceanside, Palm Desert, Palmdale, Palos
Verdes Estates, Pasadena, Piedmont, Pismo Beach, Placentia, Point Arena,
Rancho Cucamonga, Rancho Palos Verdes, Richmond, Riverside, Rocklin,

Rosemead, Roseville, Sacramento, San Carlos, San Jose, San Leandro, San Marcos, San Mateo, San Pablo, San Rafael, Santa Ana, Santa Clara, Santa Clarita, Santa Monica, Santee, Signal Hill, Sunnyvale, Thousand Oaks, Torrance, Tulare, Ukiah, Union City, Vallejo, Ventura, Vista, Walnut, West Covina, West Hollywood, and Whittier
County of Ventura
Ecological Options Network
EMF Safety Network
Kern County
League of California Cities
Marin County Council of Mayors and Councilmembers
Northern California Power Agency
Orange County Board of Supervisors
Protect our Local Streets Coalition
Rural County Representatives of California
Santa Barbara County Board of Supervisors
Santa Clara County Board of Supervisors
Scientists for Wired Technology
Southern California Public Power Authority
The Utility Reform Network
Towns of Danville, Hillsborough, Mammoth Lakes, and Portola Valley
Urban Counties of California
Ventura Council of Governments
Several Individuals

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
5/30/17 17:29:38

**** END ****

REPORT

DATE: June 15, 2017

TO: Transportation Committee

FROM: Phil Hawkey, Executive Director

VIA: Mark Christoffels, CEO, ACE Construction Authority

RE: Draft Measure M Guidelines

RECOMMENDED ACTION

Staff recommends the Board receive and file this report on the status of the draft Measure M Guidelines.

BACKGROUND:

On April 24, 2017, the Governing Board authorized staff to send the attached letter to Metro with the San Gabriel Valley Council of Government's (SGVCOG) on the proposed Measure M Guidelines (Attachment A). In addition, staff has been representing the interests and concerns expressed in that letter at the Measure M Policy Advisory Council (PAC) meetings. In response to comments received as well as input from the Measure M PAC, Metro staff have modified the draft as Measure M Guidelines. Attachment B provides a summary of the PAC's major concerns and Metro's response and attachment C provides a "redlined" version of the Measure M guidelines.

Metro has addressed the SGVCOG's numbered comments as follows:

- **Comment No 1:** stated that Measure M multiyear subregional funds should be programmed through the COG, not Metro and recommended that the COG be allowed to put together 5-year programming plan that would provide Metro with direction on the projects to be funded under each multiyear subregional funds.
 - Metro concurred with this approach and has included this in the re-drafted guidelines
- **Comment No 2:** requested that the language concerning borrowing from multiyear subregional funds only be authorized with the COG's concurrence.
 - Metro has included language to address this.
- **Comment No 3:** requested a portion of the multiyear subregional funding be allowed to offset the COG's expenses for preparation of the 5-year programming efforts.
 - Metro has added language that up to .5% of the funds may be used for this purpose.
- **Comment No 4:** requested that Metro receive COG's concurrence before utilizing alternative funding sources (funds other than Measure M) to meet this funding obligation Metro added language requiring this concurrence. The SGVCOG also asked that these equity funds be eligible for bonding capacity.
 - Metro is still reviewing this possibility, but did clarify that only Metro can bond out future multiyear subregional funds.

- **Comment No. 5:** requested that park and ride facilities be included as an eligible project expense.
 - This project category has been added to the “Multi-Modal” project definition as an eligible expense.
- **Comment No 6:** requested eligibility of costs associated with “betterment work” towards meeting the required 3% local contribution for light rail projects.
 - Metro responded with a clear definition on “betterment work” as currently set forth by Metro Board policy.
- **Comment No. 7:** stated that “in kind” local contributions to meet the required 3% local contribution for light rail projects should the cost of staff time.
 - Metro has added language that will allow staff time costs provided that these costs are identified in the 30% final plan approval.
- **Comment No. 8:** requested clarification on how the required 3% local contribution for light rail projects that had gone beyond the 30% final design would be calculated.
 - Metro indicated they work be working directly with the Foothill Gold Line Authority on this matter.
- **Comment No 9:** stated that no more than \$100,000 should be used to establish a minimum local return amount.
 - Metro staff is currently recommending that no minimum amount be established.
- **Comment No 9:** requested that the COG be included in communications between Metro and Project Sponsors for projects being funded under the multiyear subregional programs.
 - Metro has added language in the guidelines to require such communication.

In general, all of the comments that the COG submitted have been addressed. It is anticipated that the Metro Board will adopt these revised guidelines at their June 22, 2017 meeting.

ATTACHMENTS:

- Attachment A – SGVCOG Comment Letter
- Attachment B – Metro PAC Comments and Metro Responses
- Attachment C – Redline Update of Measure M Guidelines



April 24, 2017

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Cynthia Sternquist

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Temple City
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Unincorporated Communities
SGV Water Districts

Honorable John Fasana, Chairman
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

RE: DRAFT MEASURE M GUIDELINES

Dear Chairman Fasana:

The San Gabriel Valley Council of Governments (SGVCOG) has reviewed the draft Measure M Guidelines and provides the following comments and recommended changes:

Comment No. 1:

Throughout the document, Metro refers to the term “Project Sponsor” when discussing the programming and use of subregional funds. This term is not defined and opens the door for individual cities or other entities within a sub-region to take the lead in programming specific projects and seeking approval directly from Metro. The SGVCOG feels strongly that sub-regional programmatic funds¹ were established and defined by the sub-regions and any project to be funded under these programs must come to Metro through a programming effort by the sub-regions.

To insure this is accomplished, the Measure M Guidelines should include a provision requiring Project Sponsors to have the concurrence of the sub-region (essentially, the COG’s² and joint powers authorities officially identified by Metro as regional planning agencies) prior to being included by Metro in their annual funding plan even if already included in the various adopted Mobility Matrices. To provide this concurrence, each COG should be required to adopt a five-year programming plan for each sub-regional program within their respective sub-region. The five-year programming plan would have to identify specific projects and phasing, allocated funding amounts, and project timing and be submitted to Metro. These programming plans would be required to be updated or amended on an annual basis reflecting executed funding MOU’s and project additions or deletions. Unless prohibited by the adopted guidelines, revenue constraints, or the Measure M ordinance, Metro would be required to adhere to these COG adopted sub-regional programming plans when executing funding MOU’s for specific projects. Should a project included in a COG adopted sub-regional programming plan be denied by Metro, each COG shall have the right to appeal the denial to the Measure M Oversight Board. Attachment A provides a flowchart of the proposed process.

¹ This does not apply to “Major Projects” identified in Measure M, for which Metro serves as the project sponsor.

² Throughout this letter the term “COG” is intended to reference both Councils of Governments and joint powers authorities that are identified by Metro as regional planning agencies.

Comment No. 2:

The guidelines allow for “Project Sponsors” to borrow from one Sub-Regional Program to accelerate the funding of a project in another Sub-Regional Program with the consent of the Metro Board and the “affected sub-region(s)”. The SGVCOG appreciates this flexibility, but would like to see language that requires the affected sub-regions to approve the proposed borrowing, by amending their affected adopted sub-regional programming plans as defined in our comment No. 1, to reflect the transfer of funds and acknowledging the associated timing impact for projects included in those sub-regional programs.

Comment No. 3:

The guidelines state that Measure M funds may be used for pre-construction as well as construction activities. Pre-construction activities are defined in the guideline and include “planning studies”. The SGVCOG recommends that this term be expanded to “planning and programming studies”. Adding the term “programming studies” will allow the sub-regions through their respective COGs to develop sub-regional project lists for corridor planning and coordination, and for subsequent project development and delivery. This will ensure that proposed projects complement each other and maximize mobility and/or sustainability.

Comment No. 4:

The Measure M Guidelines regarding Sub-Regional Equity funds state that Metro may meet these obligations using “any combination of federal, state or Metro controlled funds including, but not limited to, Measure M.” SGVCOG appreciates the need for this flexibility, however this flexibility being sought by Metro potentially places significant grant compliance requirements on sub-regions that may conflict with proposed projects or uses of those funds. The guidelines should be revised to not allow Metro the ability to unilaterally determine that a sub-region’s funding requirement under the “Sub-Regional Equity Fund” be met with something other than Measure M. Such a funding substitution should only be allowed with the affected COG (sub-region’s) concurrence. In addition, the SGVCOG requests that uses of the “Sub-Regional Equity Fund” be expanded to include the use of these funds for bonding capacity to accelerate proposed projects within the other sub-regional programs.

Comment No. 5:

The definition for eligible uses for the “Highway Demand Based Program” should include park and ride facilities, as well as other ridesharing related facilities.

Comment No. 6:

Under the section “3% Local Contribution to Major Transit Projects”, the guidelines state that “betterment work” funded by the local agency and as defined as “a change that will improve the level of service and/or capacity, capability, appearance, efficiency or function over that which is required by the Metro Design”, shall not be counted towards the 3% required local contribution. The SGVCOG disagrees with this exclusion and would like to see the guidelines amended to allow such betterment work to be counted towards the 3% local contribution. Any capital investment that enhances and improves the operation of the transit system and funded by a local agency should be desirable to Metro and should not

be discouraged by not allowing this type of betterment work to be counted towards the required 3% contribution.

Comment No. 7:

Under the section “3% Local Contribution to Major Transit Projects”, “in kind” local contributions as defined should include the cost of staff time from the commencement of the environmental phase through the end of the warranty period.

Comment No. 8:

Under the section “3% Local Contribution to Major Transit Projects”, local contribution limits are determined at the conclusion of preliminary engineering (30% plans). The guidelines need to have language to address projects that have already exceeded this point such as the Gold Line Foothill Extension. How will local contribution be determined for that project? SGVCOG suggests that language be added that states for projects that have exceeded preliminary engineering as of the initial adoption of the these Measure M guidelines, Metro shall consult with the local affected agencies to determine the appropriate project scope and cost estimate to determine the local contribution limits.

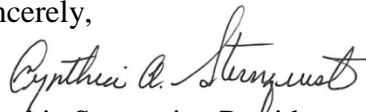
Comment No. 9:

Under local return, Metro is currently recommending a \$100,000 annual minimum allocation for small population cities that would normally receive less than this amount. The SGVCOG does not object to this proposal, however is not in favor of increasing this amount beyond the current recommended \$100,000 minimum.

Comment 10:

Upon the approval of the Measure M Guidelines and the initiation of project funding MUO's, the SGVCOG requests that they be included in all communications from Metro to Project Sponsors related to the allocation and use of sub-regional funds assigned to the SGVCOG's sub-region.

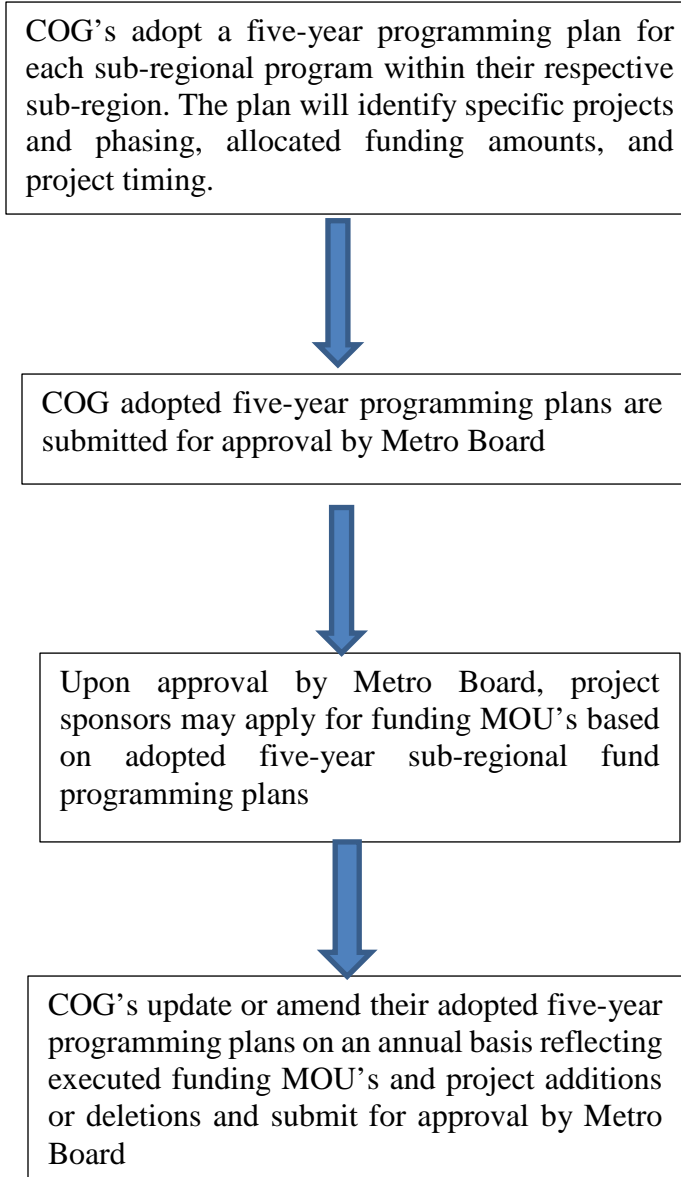
Sincerely,



Cynthia Sternquist, President
San Gabriel Valley Council of Governments

cc: SGVCOG Board of Directors
Metro Board of Directors
Phillip Washington, CEO, Metro

SGVCOG proposed project funding approval process for sub-regional funds



RESPONSES TO POLICY ADVISORY COUNCIL MAY COMMENTS FOR DRAFT MEASURE M MASTER GUIDELINES

Summary of Policy Advisory Council Initial Comments

The Policy Advisory Council (PAC) brings together 27 committee members, each with an alternate, spread across 3 groups of stakeholders (Jurisdictions/Councils of Governments, Providers, and Consumers) to provide input and recommendations on Measure M's draft guidelines and the upcoming Long Range Transportation Plan (LRTP).

PAC Engagement Process

At the first meeting on April 5th, Metro staff provided an overview of the roles and responsibilities of the PAC, followed by a presentation on the Measure M ordinance and draft guidelines. Committee members then discussed the challenges of the short timeline and mapped out a strategy on how to provide input to the Board on the draft guidelines by May. The committee broke out into the 3 categories (Jurisdictions/COGs, Providers, and Consumers) and each nominated an officer (Cecilia Estolano, Roderick Diaz, and Jessica Meaney). Each officer is responsible for coordinating with their respective members to gather their input.

In the weeks following the first PAC meeting, committee members were provided a survey to fill out with their key issues regarding the Measure M guidelines. Over 80 comments on various parts of the draft guidelines were recorded through this survey. The PAC committee then held a conference call at the end of April to begin to distill these responses into potential discussion topics for the May 2nd meeting. Comments were grouped into clusters of topics so that small "breakout" groups of PAC members could have a discussion and potentially come to consensus recommendations. Five general categories emerged:

- 3% Local Contribution for Transit
- ADA/Paratransit, Transit for Elder Adults and Students, Discounts
- Local Return: Local Return Floor, Other Allocation and Eligibility Issues
- Shovel-Readiness/Project Readiness, Program Eligibility
- Multi-Year Subregional Programs, COG/Metro Roles/Responsibilities, Fund Administration

There were also a few comments that could not fit into these five general categories that were reserved for discussion at a later date.

Comments by Category – Consensus Comments and Points needing Greater Clarification / Discussion

Based on notes from the breakout discussions at the May 2nd meeting, the PAC officers have summarized the range of perspectives expressed by members and identified areas where there is broad consensus.

3% Local Contribution for Transit

Consensus Ideas

- How 3% funding commitment is made should be flexible and be done either by individual jurisdictions (not just those within ½ mile of a station), on a corridor approach funded by the jurisdictions or through applicable subregional programs, or by state or federal grants.
A corridor or subregion can agree to redistribute the 3% amount, and may use their MSP funds if available. However, the Local Return default can only be imposed on the agencies formally listed at the time of 30% final design, and the funding agreement must be prior to start of construction.
- Any costs that would normally be considered a project cost that can be offset should be considered as eligible for the 3% local match. This may include staff time for plan checking, inspection, or permit issuance that would normally be paid for by the project.
In-kind services, such as staff time are allowed, if included in project cost at 30% completion of final design, when 3% contribution is calculated per Measure M Ordinance.
- If the local agency is working with a developer that results in the construction of improvements that would otherwise have been included in as a component of the light rail project as defined at the 30% design stage, those cost offsets shall be counted towards the 3% local match.
Funding agreement must be entered with the local agency prior to start of construction. This option can be included in the funding agreement, but as noted above, the timing of the calculation of the contribution is per Ordinance language.
- For local match requirements imposed on unincorporated county, those costs shall be assigned to the supervisorial district in which the improvements are located.
Fund source for payment of the contribution is within the jurisdiction of the agency; the County would need to make the suggested assignment distinction, not Metro.

Points needing Greater Clarification / Discussion

- Clarify “Betterments” and what improvements would be eligible to satisfy the local contribution requirement.

Metro Response: Metro will clarify “Betterments”. Guidelines draft revision: *A betterment is defined as an upgrade of an existing city or utility’s facility or the property of a Third Party, be it a public or private entity, that will upgrade the service capacity, capability, appearance, efficiency or function of such a facility or property of a third party. This definition was previously adopted by the Metro Board in the policy on Supplemental Modifications to Transit Projects.*

ADA/Paratransit, Transit for Elder Adults and Students, Discounts

Consensus Ideas

- There needs to be a way to quantify and publicize the delivery of programs and services that result from Measure M monies.
Marketing of New low income program provides the right opportunity to show the public their Measure M monies at work.
- Overall, the group agreed that there wasn't enough funding in this category to sufficiently fund these worthy initiatives. **There is limited funding in this category. Metro has creatively leveraged these funds for maximum impact.**
- Understanding of student needs is at a very nascent stage
- A regional Travel Training/Mobility Management program would be beneficial to seniors and people with disabilities and could solve the issues raised above by providing resources to these groups about transportation options and also directing them to programs that could assist them in utilizing these options.
Guidelines revised to allow for Travel Training/Mobility Management programs as eligible uses.

Points needing Greater Clarification / Discussion

- The 75/25 Allocation of the 2% ADA Paratransit for the Disabled; Metro Discounts for Seniors and Students (See response below)
- The need to educate affected groups about programs available to them.
Guidelines revised to include language on eligible use for travel training programs on pages 71-72.
A marketing plan on all available programs and new low income program will be developed and launched educating the public.
- Provisions to expand accommodation for wheelchair passengers on regular fixed-route transit
- The possibility of using local return monies to provide local senior and disabled transportation services and suggestion that the Metro Board could incentivize local cities to provide additional services to their citizens. **Local Return is already eligible for this.**

Metro Response: 75/25 Allocation split

The Ordinance language states: ADA Paratransit for the disabled and Metro discounts for seniors and students. Measure M provides for 2% annually or \$16M for three large rider groups.

ADA Paratransit is federally mandated with no dedicated funding source. The needs and resources for this group is expected to grow significantly, currently estimated at \$90M annually.

Seniors and Students are another category of riders of which Metro already provides significant reduced fares, estimated at \$100M annually.

The guidelines provide for a split of a maximum of 75% for ADA paratransit and a minimum of 25% for Metro discounts. This split allows for flexibility in funding each of these programs.

The split is based on our ability to leverage funds and budgetary needs.

- The need to fund ADA Paratransit is federally mandated. Measure M provided a dedicated funding source for this.
- Metro saw an opportunity to leverage the Measure M dollars by expanding the low income programs currently in place.
- With over \$100M dollars already provided in Metro senior and student reduced passes, the Measure M dollars could be used to really help those who need it the most, low income riders. The Measure M dollars will be used to provide an even bigger discount to these riders.

By combining the program with Measure M dollars, we took \$16M from Measure M and turned it into \$26M, from the other subsidy programs and are helping not only seniors and students, but all low income riders.

The split, which is still flexible, provides for an almost even split between the 2 categories, when adding the other subsidy programs.

- ADA Paratransit – Measure M (\$12M)
- Metro Discounts – Measure M (\$4M) + Other Subsidy (\$10M) = \$14M

Local Return: Local Return Floor, Other Allocation and Eligibility Issues

Consensus Ideas

- Local Return Floor – The allocation of \$100,000 or more to every city should be eliminated. There is not support for this proposal and there is strong opposition to redirecting funds from other cities, particularly low income cities, to the few cities that would benefit from this proposal.
Metro is recommending: 1) No minimum be established by Metro; 2) Any reallocation of funds be done at the subregional level; 3) Measure M Multi-year Subregional funds can be used to supplement Local Return allocations (subject eligibility, process and availability described in Measure M MSP guidelines).
- TOCs (Transit Oriented Communities) – The guidelines should provide more details on Metro’s own TOC policies, potentially reference the Metro manual,

Metro's own affordable housing goal for TOC, the MATCH program, etc., with specific details subject to future discussion.

Guidelines revised to reference Metro TOC manual on p. 86.

- Expand "Subsidized Taxi" to include similar services. **Guidelines revised on p. 83.**

Points needing Greater Clarification / Discussion

- Allocation Formula – daytime employment v. residential population
A variety of allocation formulas was provided at Metro's May Board meeting. Metro is recommending residential population for method of allocation, as this is the most reliable data and is updated annually.
- DBE/SBE/DVBE requirements for Local Return – requirements for some SBE/DBE/DVBE requirements or guidance; management and technical expertise

Metro Response:

- **Language encouraging SBE/DBE participation will be included in the Assurances and Understandings agreement between Metro and each local jurisdiction.**
- **SBE/DBE will be encouraged for Multi-year Subregional Program or Local Return projects under the provisions of the supplemental funds requirement, wherein any application of resources under Metro's direct control triggers application of any and all pertinent Metro policies, including those related to procurement.**

Shovel-Readiness/Project Readiness, Program Eligibility

Consensus Ideas

- Project Readiness – There is a need for a more consistent definition of “project readiness” applied throughout the guidelines. "Project readiness" should be expanded to include the ability to fund all phases of work including planning, environmental, design, right of way and construction, as well as expanding eligibility for funding both programs and projects.
- Metro agrees that the distinct phases specifically listed above in this bullet are eligible, depending on the fund category, but not “all” possible phases of work (e.g., pre-planning development is generally excluded and highway eligibility will begin with PIDs – using Caltrans definition).
- Bus Rapid Transit – Bus Rapid Transit Program should be expanded to include projects where operators other than Metro can receive funds and a process should be defined to define how projects can be added.
Metro agrees that eligibility should be expanded, to be determined as part of the revision of the Countywide BRT plan.
- Mobility Matrices – Additional flexibility is warranted to allow additional projects beyond those identified on the Mobility Matrices. The review process could be consistent with the 5 and 10 year allocation period assessment reviews, where new projects could be added. Messaging regarding the Mobility Matrices was not clear in the guidelines.
Metro agrees that there should be additional flexibility to reconsider the relevance and performance of existing Mobility Matrix projects, and similarly the addition of new projects.

Points needing Greater Clarification / Discussion

- Potential expansion of eligibility for "green streets" beyond that of just stormwater improvements to climate technology. Staff is reviewing policy for possible expansion.
- Funding cap on the earlier planning and EIR phases, to ensure that too much money is not being spent on a project that may not be feasible and likely moving forward to delivery. Additional controls will be considered in follow up administrative guidance to address project viability.
- Eligibility for 2% Highway Connectivity Program The Guidelines reference a competitive process that will be developed. It will include eligibility.
- Eligibility for 2% Transit Connectivity Program The Guidelines reference a competitive process that will be developed. It will include eligibility.
- Flexibility in Performance Measures for 1% Regional Rail Program Guidelines have been revised to reflect change from specific attainment of criteria to an

evaluative judgment that the Board would consider. These Guidelines have been developed collaboratively with Metrolink.

Multi-Year Subregional Programs

Consensus Ideas

- The subregions should be empowered to create five year plans for their programs and need a funding set aside to accomplish this task. These plans should be based on, but not limited to, the projects and programs included in the Mobility Matrices. **Agreed. Metro will recommend a 5 year plan in the Guidelines, with subsequent development of administrative requirements and procedures.**
- There should be specific metrics around community involvement and that the subregional plans should not be constraining. In other words, subregions should be able to work within the framework of the subregional plan but not be bound by it, particularly if adjustments arise during the planning process. **Metro agrees that meaningful community engagement is essential to the success of the Multi-year Subregional Program, and will include this requirement in the Guidelines. Parameters for effective community engagement will be developed as part of the subregional administrative procedures.**
- The guidelines should lay out a process for project and program development that clearly articulates Metro's role relative to other stakeholders as well as the eligibility of certain tasks related to project development in the pre-environmental phase (outreach, conceptual design, etc.). **As discussed above, a new process is being included in the Guidelines for the role of Metro relative to subregional agencies. It includes project development discussion, but eligibility of "pre-environmental" phase is to be determined.**

Points needing Greater Clarification / Discussion

- Connectivity to Airports other than LAX. **Other airports are eligible for System Connectivity and Multi-year Subregional Program funds.**
- The need for a process for projects related to:
 - Roles and responsibilities
 - Funding**As discussed above, a new process is being included in the Guidelines for the role of Metro relative to subregional agencies.**
- The need for a mechanism to sort out when cities need to go through the COGs. **This mechanism will be evaluated during the administrative process development.**
- Mechanisms for borrowing from one sub-region to another. **To be determined.**
- The need for funding for COGs to plan and prioritize projects. **Staff has proposed use of Multi-year Subregional Program funds to be used for**

subregional program development and planning, with a cap of 0.5% per year per MSP pot.

- Use of Equity Funds for bonding capacity and the need for two-way concurrence from COGs and Cities and guidance related to applicability by size of projects
Metro retains all capital fund bonding authority to manage financial constraints.
- Active Transportation Programs and professional capacity of city staff to administer federal grants and whether the guidelines should allow Metro to serve as an administrator. **Metro will consider agency concurrence for federal fund assignments.**