



JOINT POLICY COMMITTEE

Policies for the Bay Area's Implementation of Senate Bill 375

Introduction

SB 375¹ (Steinberg) was passed by the California State Assembly on August 25th, 2008, and by the State Senate on August 30th. The Governor signed it into law on September 30th, 2008.

The bill mandates an integrated regional land-use-and-transportation-planning approach to reducing greenhouse-gas (GHG) emissions from automobiles and light trucks, principally by reducing vehicle miles traveled (VMT). Within the Bay Area, automobiles and light trucks account for about 26 percent of our 2007 GHG inventory² and about 64 percent of emissions from the transportation sector.

SB 375 explicitly assigns responsibilities to the Association of Bay Area Governments (ABAG) and to the Metropolitan Transportation Commission (MTC) to implement the bill's provisions for the Bay Area. Both agencies are members of the Joint Policy Committee³ (JPC). The policies in this document were approved by the JPC and provide guidance to the two lead regional agencies in fulfilling their responsibilities in collaboration with their JPC partners, the Bay Area Air Quality Management District (Air District) and the San Francisco Bay Conservation and Development Commission (BCDC).

Bay Area Climate-Protection Context

On July 20th, 2007, the JPC approved a *Bay Area Regional Agency Climate Protection Program*⁴. This program has as a key goal: "To be a model for California, the nation and the world." Following from this key goal is a supporting goal: "Prevention: To employ all feasible, cost-effective strategies to meet and surpass the State's targets of reducing greenhouse-gas emissions to 1990 levels by 2020 and to 80% below 1990 levels by 2050." In pursuit of these goals, MTC's current Regional Transportation Plan (RTP) update, *Transportation 2035*⁵, has evaluated transportation strategies and investment programs relative to a target of reducing GHG emissions from on-road vehicles in the year 2035 by 40 percent compared to 1990 levels. ABAG has established the same target for assessing alternative land-use scenarios in the

¹ http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.html

² Bay Area Air Quality Management District, *Source Inventory of Bay Area Greenhouse Gas Emissions*, December 2008 (http://www.baaqmd.gov/pln/documents/regionalinventory2007_003_000.pdf)

³ The Joint Policy Committee (JPC) is a regional planning consortium of the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD or the "Air District"), the San Francisco Bay Conservation and Development Commission (BCDC), and the Metropolitan Transportation Commission (MTC)

⁴ <http://www.abag.ca.gov/jointpolicy/JPC%20Action%20on%20Climate%20Protection.pdf>

⁵ http://www.mtc.ca.gov/planning/2035_plan/index.htm

development of the latest iteration of the region's policy-based forecast of population and employment: *Projections 2009*⁶.

The Bay Area's regional agencies have clearly recognized the primacy of the climate-change challenge as a driver of public transportation and land-use policy, and we have embraced the urgency of GHG reduction. The momentum established by our policies and actions to date will carry over into our implementation of SB 375. We do not regard SB 375 as a vexatious new requirement, but rather as an instrument to assist us in continuing and accelerating the climate-protection journey upon which we have already embarked. We are genuinely concerned with making real and measurable progress in reducing the impact which motor-vehicle travel has on the global warming problem. That concern will be paramount in our approach to SB 375 and is reflected in the policies which follow.

Policy Subject 1: Setting Targets

SB 375 requires that the California Air Resources Board (CARB) set GHG-reduction targets for cars and light trucks in each California region for the years 2020 and 2035. CARB must release draft targets by June 30, 2010 and adopt targets by September 30, 2010.

To assist in establishing these targets, CARB is required to appoint a Regional Targets Advisory Committee (RTAC) composed of representatives of Metropolitan Planning Organizations⁷ (MPOs), affected air districts⁸, the League of California Cities (the League), the California State Association of Counties (CSAC), local transportation agencies⁹, and members of the public—including homebuilders, environmental organizations, environmental-justice organizations, affordable housing organizations, and others. The Advisory Committee is tasked with recommending factors to be considered and methodologies to be used in establishing the targets, not recommending the targets themselves—though MPOs are explicitly permitted to recommend targets for CARB's consideration.

In recommending factors to be considered and methodologies to be used, the Advisory Committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and GHG emissions, economic and demographic trends, the magnitude of GHG-reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The advisory committee shall provide a report with its recommendations to CARB no later than September 30, 2009, and CARB must consider the report before setting the targets. After the publication of the Advisory Committee Report, MPOs are required to hold at least one public workshop in their region. In establishing the targets, CARB is also required to exchange technical information with MPOs and associated air districts.

The prescribed target-setting process, including the multi-sector RTAC, creates a dynamic between *need* (i.e., the reduction required to contribute to the state's overall greenhouse-gas-reduction targets) and *feasibility* (i.e., the perceived probability of satisfying that need through

⁶ <http://www.abag.ca.gov/planning/currentfcst/news.html>

⁷ In the Bay Area, the Metropolitan Planning Organization is MTC.

⁸ In the Bay Area, the Bay Area Air Quality Management District.

⁹ In the Bay Area, this might include Congestion Management Agencies (CMAs), transit providers, and the transportation planning/streets-and-roads arms of local governments.

available regional planning and implementation mechanisms.) That dynamic may be premature and limiting. Until one goes through the actual process of producing and evaluating a target-based plan, the feasibility of that plan, and the target to which it responds, is mostly just conjecture. The necessity to limit the target based on an *a priori* judgment of feasibility is also obviated by the legislation's provision of an escape valve, the Alternative Planning Strategy (APS), which provides a mechanism to identify additional measures if target achievement proves not to be feasible in the initial plan, the Sustainable Communities Strategy (SCS).

In the 2009 RTP update and in the *Projections 2009* process, ABAG and MTC have established very aggressive GHG-reduction targets, based on the transportation sector's large contribution to the region's GHG inventory and on the science-based need to reduce GHGs to 80 percent below 1990 levels by the year 2050. The Bay Area's regional agencies are committed to achieving a significant reduction in transportation-related GHGs and are opposed to constraining that reduction by setting targets that are too low and that do not provide sufficient challenge to business as usual. We also want to ensure our efforts are rewarded with observable progress, not just with well-intentioned but unimplemented plans.

Policy 1:

The Bay Area regional agencies will fully participate in CARB's regional target-setting process. This participation will occur, to the extent possible, through the RTAC process, through the exchange of data and information with CARB, and through the authority given MPOs to independently recommend targets for their regions.

In their participation, the Bay Area regional agencies will seek factors, methodologies, and targets that *do not* limit this region's ability to achieve significant GHG reductions and that *do* provide significant challenges to current trends and habits.

The regional agencies will also seek unambiguous and accurate metrics of target achievement, so that performance relative to the targets can be confidently and unarguably assessed.

Policy Subject 2: Modeling the Relationship between Transportation and Land Use

Travel models (mathematical simulations of travel behavior relative to the regional transportation system and the distribution of land uses) are used to compare the impact of alternative transportation strategies, alternative investment packages and alternative land-use patterns. The land-use patterns that are fed into the travel models are also, in part, generated by mathematical models of economic and demographic trends.

SB 375 requires that the California Transportation Commission (CTC), in consultation with the California Department of Transportation (Caltrans) and CARB, maintain guidelines for travel models. The guidelines must, to the extent practicable within resource constraints, account for:

- The empirical relationship among land-use density, automobile ownership, and vehicle miles traveled (VMT);
- The impact of enhanced transit service on vehicle ownership and VMT;
- Induced travel behavior and land development likely to result from highway or rail expansion;

- Mode splits between automobile, transit, carpool, bicycle, and pedestrian trips;
- Speed and frequency, days, and hours of operation of transit service.

SB 375 also requires that MPOs disseminate the methodology, results, and key assumptions of their travel models in a way that would be usable by and understandable to the public.

Models will be key tools in developing and assessing the alternative transportation and land-use strategies required to implement SB 375. MTC is currently replacing its travel model with a new instrument more attuned to the CTC guidelines. ABAG is about to update its land-use forecasting models.

This is an opportune time to ensure that the region's models are integrated and can be used in an iterative manner, with not only the land-use models feeding into the travel model but with the travel model also feeding back into the land-use models so that the development impacts and requirements of various transportation measures and investments can be more confidently evaluated and so that a mutually reinforcing land-use *and* transportation strategy can be constructed. At present, the relationship is very linear and one-way, with the land-use forecast informing the travel model but the travel model only indirectly influencing how we forecast land use. Achieving two-way integration will require a much closer working relationship between ABAG and MTC staff engaged in modeling and forecasting than has heretofore been the case.

While the models are very technical and complex, it is also a worthy and responsible objective to aim for more public transparency of model methodologies, assumptions and particularly limitations.

Policy 2:

The Bay Area regional agencies will work together to construct an integrated and transparent modeling system which facilitates technical, decision-maker and public understanding of how land-use and transportation decisions can be coordinated so as to reduce GHG emissions.

Policy Subject 3: Preparing a Sustainable Communities Strategy and an Alternative Planning Strategy

SB 375 requires that each MPO (MTC and ABAG in the Bay Area) prepare a sustainable communities strategy (SCS). This strategy is to, among other things, constitute the land-use forecast for the Regional Transportation Plan (RTP) and must comply with federal requirements for that forecast, including most importantly that it be judged to be realistically attainable during the twenty-five-year period of the RTP. One criterion for judging realistic attainability is congruence with local-government general plans, specific plans and zoning.

The SCS shall be adopted as part of the RTP¹⁰ and shall:

- Identify the general location of uses, residential densities, and building intensities within the region;
- Identify areas within the region sufficient to house *all* the population of the region, including all economic segments of the population, over the course of the planning period of the RTP

¹⁰ The next RTP update, and the first to which SB 375 will apply, is scheduled to be adopted in March 2013.

(i.e., 25 years), taking into account net migration into the region, population growth (presumably referring to natural increase), household formation, and employment growth;

- Identify areas within the region sufficient to house an eight-year projection of the regional housing need;
- Identify a transportation network to service the transportation needs of the region;
- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region;
- Consider state housing goals;
- Forecast a development pattern for the region, which when integrated with the transportation network and other transportation measures and policies, will achieve, to the extent practicable, the targeted greenhouse-gas emission reduction from automobiles and light trucks, while also permitting the RTP to comply with the Clean Air Act;
- In doing all of the above, consider spheres of influence that have been adopted by LAFCOs.

Some believe that the SCS is just ABAG's *Projections* under another name and with slightly different prescriptions and constraints. It is much more than that. While the SCS will, in part, play a role similar to *Projections* in the RTP, it is not just a land-use forecast, but a preferred development pattern *integrated* with the transportation network and with transportation measures and policies. It approaches in intent and content a comprehensive land-use and transportation plan for the region. As such, it should play a more fundamental guiding role for the RTP than does *Projections*, which is mostly used now for the Environmental Impact Report (EIR) and for air quality conformity analysis accompanying the RTP.

Before adopting the SCS, we will be required to quantify the reduction in greenhouse gas emissions projected to be achieved by the SCS and identify the difference (if any) between that reduction and the CARB targets for the region.

If the SCS is unable to reduce greenhouse gas emissions to the targeted levels, then we must prepare an Alternative Planning Strategy (APS) showing how the greenhouse-gas targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The APS is a separate document from the RTP but may be adopted at the same time as the RTP. In preparing the APS, we are required to:

- Identify the principal impediments to achieving the targets through the SCS;
- Describe how the GHG targets would be achieved by the alternative strategy and why the development pattern, transportation measures and transportation policies in the APS are the most practicable choices for the achievement of those targets;
- Ensure that the APS complies with all the federal requirements for an RTP "except to the extent that compliance with those requirements would prevent achievement of the GHG targets" (i.e., the APS is essentially exempted from the criterion of realistic attainability);
- Develop the APS in the same manner and consider the same factors as we would to develop an SCS.

The APS is essentially a more aggressive GHG-reduction strategy than would be permissible under the federal requirements for an RTP—i.e., financially constrained and with a realistic land-use forecast.

As the SCS is an official part of the RTP, it is required by federal law to be internally consistent with the other parts of the RTP, including the financially constrained transportation investment package. This is what gives the SCS its power: transportation projects identified for funding in the RTP investment package must be consistent with the SCS¹¹.

As the APS is not included in the RTP and therefore does not influence transportation investment, its potential impact is much more limited. It serves essentially two purposes, the first explicit in the legislation, the second implicit: (1) to provide access to some California Environmental Quality Act (CEQA) concessions for qualifying development projects¹², and (2) to provide a means through which the state can be informed of additional powers, authorities or resources required to meet regional GHG-reduction targets.

The Bay Area's regional agencies are committed to making a real difference in reducing GHGs. Therefore, it is in our interest to achieve as much progress toward this region's targets in the SCS as possible. Those land-use changes, transportation measures and transportation policies which can only be identified in the APS are essentially those that we have conceded cannot be implemented; that is, we cannot provide the required assurances to the federal government that those changes, measures, and policies meet the realism test—at least not within the current distribution of authorities. If the changes, measures and policies are not real, then the GHG reductions are also not real. We will not attain the on-the-ground improvement we desire and need.

Meeting the realism test for the SCS requires two preconditions: (1) alignment of local land-use policy with the preferred land-use pattern in the SCS¹³ and (2) authority and resources to undertake the required transportation policies and measures. To maximize our probability of success, we need to be acquiring those preconditions now, building upon the momentum that we have established with the target driven RTP, *Transportation 2035*, with the performance-based

¹¹ The legislation specifically excludes a subset of investment projects from this requirement, including those contained in the 2007 or 2009 Federal Statewide Transportation Program (STP), those specifically listed in a sales tax ballot measure approved before the end of the 2008, and arguably those funded through Proposition 1-B (2006). Further the legislation does not require a sales tax authority to change the funding allocations approved by voters for categories in a sales tax measure adopted before the end of 2010.

¹² CEQA concessions are extended to two potentially overlapping types of development projects: (1) a residential or mixed-use project consistent with an SCS or APS; and (2) specifically defined "transit priority projects" (TPPs). Subject to incorporating mitigation measures from previous reviews, the EIRs for SCS- or APS-consistent projects will not be required to address growth-inducing impacts, global warming impacts, or regional transportation network impacts. Further SCS- or APS-consistent development projects will not have to prepare a reduced-density alternative to address local traffic impacts. TPPs will be exempt from CEQA review if they are consistent with an SCS or APS and comply with a long list of other mandatory and optional criteria.

¹³ SB 375 explicitly provides that neither the SCS nor the APS will regulate the use of land or supersede the exercise of the land-use authority of cities and counties. It further stipulates that there is no requirement that a city's or county's land-use polices and regulations, including its general plan, be consistent with the RTP (including the SCS) or with the APS. Therefore, alignment of local land-use policy with the SCS will have to be voluntary.

Projections 2009 and with the Bay Area's voluntary development and conservation strategy, *FOCUS*¹⁴.

Transportation 2035 has been instrumental in introducing climate protection as a core regional transportation planning objective to the CMAs and to other transportation planning and operating agencies. The *Projections 2009* process has initiated a productive discussion with local-government officials on the impact that land-use and development has on transportation GHGs. *FOCUS* has provided mechanisms, priority development areas (PDAs) and priority conservation areas (PCAs), through which the regional agencies and local governments can partner on achieving a land-use pattern that contributes to lower VMT and hence fewer GHG emissions.

To enable the region to prepare a genuinely effective SCS in association with the 2013 RTP, the cooperative policy discussions begun with the 2009 RTP and with *Projections 2009* need to continue and accelerate over the next few years and into the formal beginning of the SCS process. A successful SCS will not be proposed and imposed by the regional agencies, but will be built and owned cooperatively at all levels by all the transportation and land-use authorities in the Bay Area.

We also need to make substantial progress on the implementation of the PDAs and PCAs, so that local governments have concrete examples upon which to draw when constructing local plans that are consistent with the SCS. And we need to establish trust among local governments that substantial regional and state assistance to PDAs and PCAs is truly forthcoming. Full local-government participation in the *FOCUS* PDA and PCA initiatives is conditioned on the provision of incentive funding. In *Transportation 2035* MTC established a \$2.2-billion¹⁵ Transportation for Livable Communities (TLC) account to, in part, assist PDAs and transit-oriented development. Early programming of dollars in the TLC account can set a positive stage for an SCS that enjoys local-government support and, therefore, is more likely to be realistically attainable.

Policy 3

The Bay Area regional agencies are committed to achieving the region's GHG-reduction targets through the SCS and will prepare an APS only as a last resort.

To assist in the preparation of a realistic and attainable SCS, the regional agencies will:

- Form a partnership with local transportation and land-use authorities and with other relevant stakeholders to cooperatively prepare an SCS, beginning no later than the end of 2009;
- Begin programming and allocating funds from the \$2.2 billion TLC account no later than fiscal year 2010-11 so as to demonstrate a tangible commitment to priority development areas that assist in reducing GHGs;
- Initiate joint programming of regional-agency funding (e.g., MTC and BAAQMD grants) to achieve synergies and maximize combined impact;

¹⁴ <http://www.bayareavision.org/initiatives/index.html>

¹⁵ As a federal requirement, enumerated in escalated dollars of the day.

Policy 3 continued

- Give priority consideration to SCS-supportive incentives in the allocation and programming of new funding (e.g., the federal stimulus package) as it becomes available to the regional agencies;
- Advocate for early and appropriately directed incentives for PDAs and PCAs from existing state programs and for the creation of additional incentive mechanisms through new state legislation in advance of the SCS;
- Work with federal agencies to ensure that fiscal constraints and realism tests account for reasonable and probable changes in policy and financial capacity between plan initiation and the RTP horizon year;
- Advocate for road pricing and other transportation measures and authorities that can contribute to reducing VMT and hence GHGs.

Policy Subject 4: Achieving Consistency with Adjacent Regions

As referenced under Policy Subject 3, the SCS will be required to identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, taking into account net migration into the region, natural increase, household formation, and employment growth.

This is a substantial departure from present regional-planning practice, which has assumed some spillover of Bay-Area-generated housing and transportation demand into adjacent regions, particularly into the Central Valley. We can plan to accommodate all our population growth, but our plans are unlikely to be realized if they are not consistent with those of our neighboring regions, who may continue to plan on the basis of accommodating exogenous demand from the Bay Area. Early and frequent discussions with surrounding regions to coordinate assumptions and policies is, therefore, required.

Policy 4:

The Bay Area regional agencies will initiate discussions and consult with our neighboring regions throughout the model-development and SCS planning processes to facilitate consistency in assumptions and policies.

Policy Subject 5: Synchronizing and Conforming the SCS and the RTP with the Regional Housing Needs Allocation (RHNA)

SB 375 requires that the RHNA/housing element cycle will be synchronized and coordinated with the preparation of every other RTP update, starting with the first update after 2010 (i.e., 2013). RTP updates occur every four years, and housing elements must be adopted by local governments eighteen months after the adoption of the RTP. With a few exceptions, the region will now be on an eight-year RHNA cycle and local governments will be on eight-year housing-element cycles. In addition to synchronizing with the preparation of the RTP and the SCS contained therein, the RHNA allocation must be consistent with the development pattern included in the SCS, and the resolution approving the RHNA shall demonstrate that it is

consistent with the SCS. Housing elements and associated local zoning adopted pursuant to the RHNA may be among the most important means for making the SCS real.

The 2008 ABAG RHNA process was the first in the state to explicitly connect the regional housing allocation to the sort of focused-growth and transit-oriented development principles which are likely to be central to the SCS. We, therefore, have a head start on the consistency requirements of SB 375. However, many of jurisdictions that received higher RHNA numbers as the result of the newly applied principles also persuasively argued that they required additional resources to respond to the infrastructure and service requirements of more housing and population. A more intimate connection with the RTP will be required to assist resources to flow in the same direction as housing requirements.

Existing law makes MTC responsible for the RTP and ABAG responsible for the RHNA. SB 375 makes both agencies jointly responsible for the SCS, though the SCS will also be adopted as part of the RTP. To ensure coordination and complementariness and to ensure that both agencies are fully cognizant of their commitments to each other and of their joint commitments to other partners and the region, all three instruments—the RTP, the RHNA and the SCS—should be developed and adopted together as a regional-agency partnership.

Policy 5:

The SCS, RTP and RHNA will be developed together through a single and integrated cross-agency work program.

Progress and interim products in the cross-agency work program will be reported *first* to the JPC, and through the JPC to the committees, boards, and commission charged with making draft and final decisions on each of three policy instruments: MTC for the RTP, ABAG for the RHNA, and both for the SCS.

The JPC may, from time to time, form subcommittees, including additional representatives from each of the agencies, to facilitate broadened vetting of significant draft documents.

To the extent feasible, policy reports and adopting resolutions for each of policy instruments will reference implications for the other instruments so that all decisions are cognizant of interdependencies.

Policy Subject 6: Providing CEQA Assistance

SB 375 provides various levels of CEQA assistance to housing and mixed-use development projects based on their conformity with a number of criteria, including consistency with an SCS or APS. However, the legislation only vaguely defines “consistency” and then in manner which may not be compatible with current Bay Area regional land-use planning practice. One approach to clarifying “consistency” is the preparation of a programmatic environmental impact review (EIR) for the SCS (and for the APS, if required). Development projects, as well as infrastructure projects, might also be able to “tier off” this EIR, and thus become eligible for additional CEQA assistance in addition to that provided through SB 375. The feasibility of this approach, and of alternatives, requires the resolution of a number of technical and legal issues, including the relationship to the EIR presently prepared for the RTP. Work to resolve these issues needs to occur as soon as possible as it will clearly affect the manner in which we prepare the SCS/APS.

Policy 6:

In consultation with appropriate CEQA authorities, the regional agencies will develop and finalize, no later than June 2010, a functional design for the structure and content of the SCS, the APS and associated environmental impact review documents sufficient for these to be confidently employed as the basis for determining eligibility for CEQA assistance as contemplated in SB 375 and, if feasible, to provide additional CEQA assistance for projects which contribute positively to environmental objectives for the region.

Policy Subject 7: Aligning Regional Policies

While ABAG and MTC develop the region's first SCS, the Air District and BCDC will also be putting together policies and regulations that will affect the region's distribution of land uses and the placement of public infrastructure. Both agencies may, as well, propose projects which could be included in the RTP.

In its effort to control criteria pollutants (e.g. ozone precursors and particulate matter), the Air District may, under existing authority, consider an indirect source rule (ISR) that regulates the construction and long-term transportation impacts of land development and requires mitigation or payments in lieu for development which does not meet established standards. Of particular concern is development which is deemed to increase automobile travel and hence vehicle emissions. The Air District may also seek to limit development in certain areas so as to reduce exposure to noxious particulate matter and other localized air toxins.

BCDC will be preparing an adaptation plan to prepare for inevitable sea-level rise and storm surges affecting areas on and near the Bay shoreline. This will have implications for the location of future development and perhaps for the relocation of present development and infrastructure.

It is essential that both the Air District's work and BCDC's be aligned with the SCS so that the regional agencies complement and do not contradict one another. Confusion will not contribute to the multi-level collaboration required to achieve a sustainable communities strategy that works.

Policy 7:

Starting immediately, all regional-agency policies affecting the location and intensity of development or the location and capacity of transportation infrastructure will be vetted through the JPC and evaluated against the filter of the emerging SCS.

WCCTAC

West Contra Costa Transportation Advisory Committee

El Cerrito

February 27, 2009

Hercules

Mr. Ted Droettboom,
Regional Planning Program Director
Joint Policy Committee – Regional Planning Program
101 Eighth Street
Oakland CA 94607

Pinole

RE: Comments on Draft Policies for Bay Area's Implementation of Senate Bill 375

Dear Mr. Droettboom:

Richmond

Thank you for the opportunity to provide comments on the Joint Policy Committee's (JPC's) Draft *Policies for the Bay Area's Implementation of Senate Bill 375* dated January 23, 2009. The West Contra Costa Transportation Advisory Committee (WCCTAC) is a Joint Exercise of Powers Agreement among the cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, Contra Costa County, and west Contra Costa transit providers AC Transit, BART, and WestCAT. WCCTAC generally looks after the transportation interests of west Contra Costa County, and specifically advises the Contra Costa Transportation Authority (CCTA) on transportation issues and policies. At our January 30 meeting, the WCCTAC Board affirmed our strong support of the JPC's statement of policy. We are concerned about the environmental impacts of transportation, and appreciate the JPC's position of taking the lead in climate protection. The following outlines our specific comments.

San Pablo

Contra Costa
County

Comments on Policy 1, Setting Targets. WCCTAC supports the Bay Area's full participation in the target-setting process. We are interested in serving on the Regional Targets Advisory Committee (RTAC) as a member of CCTA. Four out of the five cities on WCCTAC and Contra Costa County are members of ICLEI – Local Governments for Sustainability, as are a majority of the cities and towns in Contra Costa County.

AC Transit

We support setting targets that will challenge the current practice, and understand that this approach is necessary to achieve success. We are committed to supporting the targets recommended by the JPC through MTC.

BART

WestCAT

Comment on Policy 2, Modeling the Relationship between Transportation and Land Use. WCCTAC supports an integrated and transparent land use and transportation model, but believe that this may present a significant challenge to complete within the timeframe for meeting the targets. The policy should include a provision to ensure that development of the model does not compromise the Bay Area's SB 375 implementation schedule.

Comments on Policy 3, Preparing a Sustainable Communities Strategy (SCS) and an Alternative Planning Strategy (APS). In general, WCCTAC supports a regional strategy that at the same time encourages individual achievement and accountability. To this end, the

policy should add provisions for setting county-level targets and strategies to address failure to make progress towards achieving those targets.

The following comments correspond one-to-one with the bulleted list of proposed policies intended to assist in the preparation of a realistic and attainable SCS:

- We strongly support partnership with local transportation and land use authorities, not just to prepare the SCS, but all throughout the process. The SCS should be consensus-based, with the regional agencies engaging local authorities in a spirit of true partnership, i.e. in a cooperative and collaborative manner.
- We support the use of Transportation for Livable Communities funds as an incentive, a reward, and to create models for others, especially in terms of enhanced accessibility to transit. We have eight priority development areas in west Contra Costa County – evidence of our commitment to transit-oriented developments and its supporting amenities.
- WCCTAC supports a cooperative funding arrangement between the regional agencies to advance the cross-cutting objectives of the program. We believe that this will lead to more robustly defined projects.
- WCCTAC supports priority consideration for projects that advance the SCS strategies in the programming and allocations of new funding. We believe that this will enhance the region's ability to meet the targets and provide an incentive to agencies to make the necessary paradigm shift. However, the policy should be clarified to indicate that this would apply only to new funding sources that have a clear nexus to the goals and objectives of SB 375.
- WCCTAC supports advocacy for early incentives and enabling legislation at the state level.
- The proposed policy, "Work with federal agencies to ensure that fiscal constraints and realism tests account for reasonable and probable changes in policy and financial capacity between plan initiation and the [Regional Transportation Plan] RTP horizon year," needs clarification. Who will decide what changes are reasonable and probable? What will be the criteria for making these decisions?
- The policy should not specify advocacy for a particular strategy, in this case road pricing, that may contribute to reducing vehicle miles of travel (VMT) and hence green house gases. There are specific applications of those strategies, such as high occupancy toll (HOT) lanes, which we do not believe contribute to an overall reduction in VMT and which may be associated with undesirable consequences in other significant policy areas such as transportation equity. The policy should be stated to be more general.

Comment on Policy 4, Achieving Consistency with Adjacent Regions. WCCTAC supports consultation and coordination with neighboring regions to facilitate consistency.

Comment on Policy 5, Synchronizing and Conforming the SCS and the RTP with the Regional Housing Needs Allocation (RHNA). WCCTAC supports efforts to integrate the SCS, RTP, and RHNA processes. In developing the proposed single and integrated cross-agency work program between MTC and ABAG, initiatives that go beyond the requirements of SB 375 should be widely vetted, especially if those initiatives could ultimately affect local authority and processes.

Comment on Policy 6, Providing CEQA [California Environmental Quality Act] Relief.
WCCTAC supports the proposed policies for clarifying eligibility for CEQA concessions and seeking additional CEQA relief for projects that advance the environmental objectives of the region. The JPC should also pursue additional statutory provisions that would reduce the probability of litigation against transit-oriented developments and supporting projects.

Comment on Policy 7, Aligning Regional Policies. WCCTAC supports review by the JPC of all regional agency policies affecting the location and intensity of development or the location and capacity of transportation infrastructure in the context of alignment with the emerging SCS. The policy should clarify that the JPC may provide comments on how to better align those policies with the SCS, but that the final decisions on those policies would lie with the regional agency that proposed the policy. The policy should also clarify that the JPC's purview in this context will extend only to policies and not individual projects.

Conclusion

We appreciate the JPC's efforts to craft a statement of policy for the implementation of SB 375 that is detailed, transparent, and inclusive. In summary, WCCTAC strongly supports the JPC's proposal to take the lead on climate protection through this effort. We look forward to the opportunity to partner with the JPC to develop the region's Sustainable Communities Strategy and ultimately deliver the promise of SB 375.

Please feel free to contact me or Christina Atienza of our staff at 510.215.3044 if you have any questions.

Sincerely,



Maria T. Viramontes
WCCTAC Chair

cc: Hon. Gayle Uilkema
Hon. Mark Ross
Hon. Amy Worth
Hon. Federal Glover
WCCTAC Board
CCTA Board



CONTRA COSTA
transportation
authority

March 18, 2009

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RE: Proposed Joint Policy Committee (JPC) Policies for Implementation of SB 375

Dear Mr. Droettboom:

Thank you for the opportunity to comment on the draft proposed JPC policies. The Authority supports cost-effective approaches to reducing greenhouse gas (GHG) emissions, consistent with the overall goal of SB 375. We are interested in working closely with MTC, ABAG and the JPC to identify and implement meaningful steps towards that goal.

Expanding the JPC Partnership

The Authority supports expanding the JPC’s partnership to include the Bay Area’s nine congestion management agencies (CMAs) and their constituent local jurisdictions in the preparation of the “sustainable communities strategy” (SCS) required under SB 375, and the regional transportation plan (RTP). The CMAs are best-positioned to effectively and realistically link transportation investment decisions with the land use decisions of their constituent cities and counties, particularly as the latter have sole authority over land use.

Proposed Changes to Specific Draft Policies

- **Policy 1, Seeking GHG emissions reduction targets that “provide significant challenges to current trends and habits”, and may go beyond those set by the CARB.**

Revised Recommended Policy: The Bay Area regional agencies will seek factors, methodologies, and GHG emissions reductions targets from the Air Resources Board (ARB) that are feasible, reasonable and realistic.¹ MTC and ABAG will

¹ Having the ARB set a reasonable and realistic target for GHG emissions is critical to minimize the exposure to litigation against the SCS and the RTP. As revised by SB 375, Section 65080 (b)(2)(B)(vii) of the Government Code now requires each metropolitan planning organization (MPO; in the Bay Area, MTC

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work in partnership with the CMAs and the cities, towns and counties of the Bay Area to seek the most effective approaches that could achieve reductions in GHG emissions well beyond ARB targets.²

Concerns with the JPC Draft Policy: We believe that the draft policy raises litigation and equity issues. If the region obtains aggressive targets from ARB that prove unattainable, litigation against MTC's RTP might well occur which could freeze project delivery for essential infrastructure, and could also lead to the redirection of funding away from projects and programs beneficial to and desired in a particular county. Specifically, in Contra Costa we believe that litigation could place Measure J projects at risk, once the "exemption period" in the statute ends.³

If, for example, our sales tax projects need federal funds, but (a) the GHG emission target is not met, and (b) the projects are deemed to be inconsistent with achieving the ARB target, then state and/or federal matching funds for accomplishing them could be prohibited by policy or litigation.⁴ Such an outcome would then block the Authority's ability to implement the vision approved by its voters as set forth in Measure J.

and ABAG have split responsibilities) to prepare an SCS that shall "set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks **to achieve, if there is a feasible way to do so**, the greenhouse gas emission reduction targets approved by the state board;" (*emphasis added*). This section is the primary potential source of future litigation, in our view, and why it is important to keep the formal targets reasonable and realistic.

² Such "expanded" targets should be explored through the evaluation of alternative land use and transportation investment strategies similar to the fully collaborative approach taken in the Sacramento region.

³ Footnote 11 in the JPC document (p. 6) is incorrect and needs to be revised. The exemption from the provisions of SB 375 only applies to projects programmed for funding on or before December 31, 2011. For local sales tax measures, only those projects specifically listed in a ballot measure prior to December 31, 2008 are exempt, and any state or federal funds necessary to complete them not programmed by that date would not be exempt. Proposition 1B bond projects and those contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program are also exempt from the requirements of SB 375 if programmed for funding on or before December 31, 2011. Govt. Code Section 65080(b)(2)(K).

⁴ It would not be beneficial to repeat the region's experience with transportation control measure 2 (TCM 2), a forecast that Bay Area transit ridership would increase 15% from 1982 to 1987 – when in fact that 15% ridership increase had not been achieved even by 2007, 25 years later.

- **Policy 2, Modeling the Relationship between Transportation and Land Use.**

We support the policy as stated with three caveats: (1) the “integrated and transparent modeling system” for assessing transportation and land use policy choices could be accomplished without necessarily linking the two models mechanically; (2) development of model enhancements or an “integrated” model should not compromise the Bay Area’s implementation schedule and working relationship with the CMAs and local jurisdictions; and (3) the policy should be further framed as follows:

- At the end of the day, models are simply a tool to assist in our understanding of complex human choices, and their outcomes should be carefully assessed and tested against our knowledge and understanding of human behavior and the plans, expectations and constraints of local jurisdictions.⁵
- It is critically important for the modeling and analytical techniques to be applied in a way that conveys the assumptions made, the range of outcomes likely to result from varying those assumptions, and the sensitivity of the model to those variations.
- Models and analytical procedures must not only assess the prospective impact of varying transportation capacity on land use, but also consider other factors influencing the decisions that individuals and families make regarding where to live, work, shop and socialize, and how to get there. Such factors include the quality of schools, housing affordability, proximity to youth, sports or recreational activities, public safety, and other quality of life considerations that often may trump transportation considerations.

- **Policy 3, Preparing a Sustainable Communities Strategy (SCS) and an Alternative Planning Strategy (APS).**

Revised Recommended Policy: “The Bay Area regional agencies are committed to achieving the region’s GHG-reduction targets through the SCS and will prepare an APS only as a last resort. To assist in the preparation of a realistic and attainable SCS, the regional agencies will:”

- *Form a partnership with the CMAs and local land use jurisdictions to cooperatively prepare an SCS, beginning no later than the end of 2009;*
- *Work collaboratively through the CMAs to identify capital investments that are necessary for achieving or facilitating transit-oriented and*

⁵ For example, modeling and analysis suggested that the BART SFO/Milbrae extension would not require an operating subsidy. When those forecasts were not achieved, a major dispute resulted in whether BART or SAMTRANS would be responsible for defraying the several million dollars in operating subsidies required to sustain the services. In another example that was a precursor to today’s financial challenges, in the late 1990s the hedge fund Long Term Capital nearly brought down the banking system when its sophisticated mathematical trading models failed to anticipate the impact of defaults in Russian bonds.

“smart growth” developments where supported by local jurisdictions, identify funding needed to accomplish those projects, and support CMA development of funding packages for them.

- *Recognize that investments in transit-oriented and smart growth projects must be viewed in the context of other existing commitments and policies, including the provision of sufficient funding to address the most critical capital shortfall needs of local streets and roads and transit, and implementation of voter-approved state bond measures and local sales tax programs.*

Concerns with the JPC Draft Policy: We believe that the draft JPC proposal, with its emphasis on starting a new funding program oriented towards “incentivizing” “priority development areas”, could result in: (a) reducing funding available to accomplish the “Fix It First” policy, an existing regional commitment necessary to help address the unmet rehabilitation needs of local streets and roads and transit systems; (b) diverting funds away from accomplishing voter-approved initiatives to the new and, as yet, untested PDA program; (c) benefiting areas that “plan” to absorb new housing and transit-oriented development, as reflected in a desired growth scenario, while reducing the funding to those areas that have absorbed significant growth in the last 30 to 50 years. In that regard, Contra Costa has absorbed a much higher share of housing growth in the Bay Area over the past three decades than many areas in the urban core, and continues to need investment to meet the needs of its residents and employers. For example, increased job growth in east and west Contra Costa could be beneficial to reducing GHG emissions by reducing trip lengths of current residents.

We believe that working in partnership to develop funding packages that support beneficial growth would be more productive. Contra Costa has relatively dense, transit-oriented and/or mixed use developments emerging or planned in Antioch, Concord, El Cerrito, Hercules, Pittsburg, Pleasant Hill, Richmond, San Ramon, and Walnut Creek. The Authority has already invested millions of dollars to support some of these efforts, and plans further investments under our Measure J and STIP programs.

Finally, we believe that the JPC should not advocate for a specific policy such as road pricing without further analysis and collaboration. For example, it is not clear that HOT lanes are beneficial for reducing GHG emissions; they may, in fact, divert people out of carpools and vanpools, and have other negative impacts. Pricing can have a significant role to play in reducing GHG emissions, but issues of social equity and providing alternatives to the single occupant vehicle to sustain mobility in the face of increased pricing all need to be considered.

- **Policies 4 through 6.** The Authority has no concerns with these policies.
- **Policy 7, Vetting and evaluating all regional agency policies affecting the location and intensity of development or transportation infrastructure through the JPC.** We are concerned that this proposed policy could complicate

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the preparation of both the SCS and the RTP. The policy implies that the JPC has a role in regional governance. In reality, the JPC has limited accountability to the local governments that appoint individuals to the JPC's constituent agencies. This policy should be revised to either (a) include representatives from each CMA or the JPC in order to broaden the policy discussions, or (b) focus the JPC's efforts on a discussion of key regional policies as a way to inform the individual agencies, or (c) be eliminated.

Conclusion

We appreciate the opportunity to comment on the JPC's proposed policies. If you have any questions, please contact Bob McCleary (925.256.4724) or Martin Engelmann (925.256.4729) of our staff.

Sincerely,



Maria T. Viramontes
Chair

c.c. Authority members; MTC Commissioners
Hon. Mark DeSaulnier
Hon. Tom Torlakson
Hon. Joan Buchanan
Hon. Nancy Skinner
Steve Heminger, MTC
Henry Gardner, ABAG