
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 475
Author: Cortese
Version: 3/10/2021
Urgency: No
Consultant: Eric Walters

Hearing Date: 4/26/2021
Fiscal: Yes

SUBJECT: Transportation planning: sustainable communities strategies

DIGEST: Makes numerous changes to the provisions of SB 375 (Steinberg, Chapter 728, Statutes of 2008), including but not limited to: requiring the Air Resources Board (ARB) to update Sustainable Communities Strategy (SCS) guidelines in coordination with specified agencies; tasking ARB with appointing a State-Regional Collaborative for Climate, Equity, and Resilience, with membership as specified; requiring ARB to update short- and long-term greenhouse gas (GHG) emission reduction goals, as specified; requiring the California Energy Commission (CEC) to set regional building decarbonization targets; and eliminating the Alternative Planning Strategy (APS) compliance option.

ANALYSIS:

Existing federal law:

- 1) Requires any urbanized area with a population greater than 50,000 to establish a metropolitan planning organization (MPO) that, among other things, is responsible to ensure that regional transportation planning is cohesive across local jurisdictions. (23 U.S.C. §134–135)

Existing state law:

- 1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)
- 2) Requires ARB to determine the 1990 statewide GHG emissions level, and achieve that same level by 2020 (AB 32), and achieve a 40% reduction from that level by 2030 (SB 32). (HSC §38500 et seq.)

- 3) Requires transportation planning agencies to prepare and adopt regional plans that, with specifications, achieve a coordinated and balanced regional transportation system. (Government Code (GOV) §65080 et seq.)
- 4) Requires, as a part of the regional transportation plan, a Sustainable Communities Strategy (SCS) with specifications, to be prepared by each MPO. (GOV §65080)
- 5) Allows, if the SCS is unable to reduce GHG emissions to achieve the GHG emission reduction targets established by ARB, the MPO to instead prepare an Alternative Planning Strategy (APS) to the SCS showing how those GHG emission reduction targets would be achieved through alternative development patterns, infrastructure, or additional measures or policies. (GOV §65080)
- 6) Establishes a process for, and requires, ARB to provide regional transportation planning agencies with GHG emissions reductions targets that must be included in their SCS. (GOV §65080)
- 7) Requires, by September 1, 2018 and every four years thereafter, ARB to report to the Legislature on MPOs' progress towards meeting their GHG emission reduction targets in their SCS, including changes to emissions, metrics that support the strategies being used, a discussion of best practices, and an identification of challenges. (Allen, Chapter 646, Statutes of 2017)
- 8) Establishes the State Energy Resources Conservation and Development Commission (also known as the California Energy Commission (CEC)) and requires the CEC to implement various energy efficiency programs. (Public Resources Code §25200 et seq.)

This bill:

- 1) Requires ARB to coordinate with the California Transportation Commission (CTC) and Department of Housing and Community Development (DHCD) to issue updated SCS guidelines, and those guidelines to be updated every four years.
- 2) Tasks ARB with appointing the State-Regional Collaborative for Climate, Equity, and Resilience (Collaborative), comprised of a single representative each from ARB, the California State Transportation Agency (CalSTA), DHCD, Strategic Growth Council (SGC), California Coastal Commission (CCC), Department of Forestry and Fire Protection (CalFire), MPOs, affected air districts, the League of California Cities, the California State Association of

Counties, the California State Association of Counties, local transportation agencies, and members of the public representing specified interests.

- 3) Tasks the Collaborative with accomplishing the following responsibilities and reporting their results to ARB by December 31, 2022 for incorporation into the above updated SCS guidelines:
 - a) Developing a simple quantitative tool for MPOs to use to evaluate an regional transportation plan's (RTP) alignment with long-range GHG emission reduction targets.
 - b) Recommending guidelines for MPOs to use when crafting long-range strategies on climate resilience and social equity.
 - c) Identifying best practices for advancing common long-range strategies.
 - d) Generating point-based climate impact scores for each implementation action.
- 4) Requires ARB, in consultation with CTC and DHCD, to identify long- and short-range regional GHG emission reduction targets for each MPO, demonstrate how the targets could be met with existing revenues, and to provide an opportunity for public comment prior to the adoption of those targets on or before June 30, 2023.
- 5) Requires ARB to update regional GHG emission reduction targets for long-range goals every eight years, and near-term goals every four years, consistent with MPOs' timeframes for RTP updates.
- 6) Stipulates that ARB ensure these updates are achievable within the context of each region's approach to meeting the housing goals in their housing elements and regional climate adaptation strategies and policies.
- 7) Tasks CEC in consultation with the Public Utilities Commission (PUC), ARB, and California's Independent System Operator (CAISO), to set regional building decarbonization targets for 2030 and 2045 for each MPO.
- 8) Permits MPOs to include an addendum with local building decarbonization policies (and their associated anticipated emission reductions) alongside their SCS.
- 9) Removes the ability for an MPO to submit an Alternative Planning Strategy (APS) in lieu of an SCS.

Background

- 1) *Transportation emissions.* Emissions from the transportation sector, the state's largest source of GHGs, are still on the rise despite statewide GHG emission reduction efforts and increasingly ambitious targets. According to ARB's GHG emission inventory, transportation sector emissions have grown to 41% of California's total emissions as of 2017. A 2018 Legislative Analyst's Office report found that roughly 90% of the transportation sector's emissions were from on-road sources – 69% passenger vehicles and 22% heavy-duty vehicles.
- 2) *Regional Transportation Plans.* Long-term planning decisions about transit infrastructure by local governments are guided by 20-year Regional Transportation Plans (RTPs). Federal and state requirements for the development of RTPs have been in law since the 1970's, with additional requirements added over the years.

Over the decades that RTPs have been used, there have been changes in the considerations included in transportation planning. As an example, the latest California RTP Guideline revision in 2017 included updates such as following state climate change mitigation/adaptation guidance, considering environmental justice issues, and updating travel demand models.

- 3) *Sustainable Communities and Climate Protection Act of 2008 (SB 375).* In 2008, the Legislature passed SB 375, a first-of-its-kind law to recognize the critical role of integrated transportation, land use, and housing decisions to meet state climate goals. The law requires each of California's 18 regional MPOs to include a new element in their RTPs – a SCS.

The key guiding metric in a SCS is a GHG emission reduction target, which is decided by ARB upon consideration of a district's specific challenges and capabilities. This target is supposed to guide long-term planning and local decision making on new transit, housing, and roadway projects. Ultimately, while these targets are intended to guide planning discussions, they are not enforceable. The question of how MPOs fund projects that advance their SCS remains open, and MPOs do not have the authority to directly regulate land use.

- 4) *Updated regional plan targets.* In an update to the SB 375 targets originally set in 2010, ARB staff proposed new targets for 2020 and 2035, which were approved in 2018. These more stringent targets again varied by MPO, but still represented a compromise between what the MPOs believed possible, and what ARB deemed necessary to achieve SB 32 targets. Specifically, the original 2010 targets would cumulatively contribute a 13% reduction in GHG

emissions, and the updated targets would get to 19%. According to the 2017 Scoping Plan update, this reduction needs to be 25% - well above even the increased targets.

- 5) *SCS progress report to the Legislature.* As required by SB 150 (Allen, 2017), ARB prepared a report describing the MPOs' progress towards achieving the GHG emission reductions contained in their SCS documents. That report found that California was not on track to meet the GHG reductions expected under SB 375 for 2020, with emissions from statewide passenger vehicle travel per capita actually increasing. It is unlikely that any MPO achieved their 2020 GHG emission reduction goals. Without substantial changes, it will be unlikely they will achieve the currently set 2035 goals either.

Troubling findings, such as more single-occupant vehicle trips, longer commutes, and unchanging ratios of spending on roads versus other transit helped explain the shortcomings of SB 375 implementation to date. While preparing the first SB 150 report, ARB states that they consistently heard concerns over the continued pervasive and longstanding disconnect between the factors that shape regional growth and development in California – such as transportation investment, regulatory and housing market conditions at the local, regional, and state levels – and the state's environmental, equity, climate, health, economic, and housing goals.

Overall, ARB concluded that SB 375, "...focused its efforts on MPOs and initiating change in the way planning for growth and travel occurs, but structural changes and additional work by all levels of government are still needed to implement what regions have identified to be needed strategies. While no single agency or level of government alone bears the responsibility for this work; there is an important opportunity to partner across many agencies, with regional and local government staff and elected officials, and with communities on taking collaborative action toward better results."

- 6) *Building decarbonization.* Building decarbonization is a term of art used to capture the need to reduce GHG emissions from the building sector. According to ARB's GHG emission inventory, residential and commercial buildings are responsible for roughly 25 percent of California's GHG emissions when accounting for fossil fuels consumed onsite, refrigerants, and electricity demand. However, ARB has noted that these emissions numbers can vary some year-to-year. Several strategies can be deployed to reduce carbon emissions from the building sector. These include improved energy efficiency of buildings and appliances, reducing carbon emissions from fossil fuel sources, ensuring cleaner sources of energy to operate buildings and associated

appliances, addressing methane leaks, and others. ARB has noted that reducing emissions from refrigerants used for space cooling and refrigeration systems also contribute directly to building-related GHG emissions. The 2017 Update of the Climate Change Scoping Plan identifies actions to reduce GHG emissions from the building sector, including progressively improving building codes and standards, pursuing voluntary efforts to exceed code requirements, and completing existing building retrofits.

Pursuant to AB 3232 (Friedman, Chapter 373, Statutes of 2018), the CEC is developing an assessment of the feasibility of reducing the GHG emissions of California's buildings 40 percent below 1990 levels by 2030, working in consultation with the CPUC and other state agencies. The CEC has developed a draft of the report, primarily focused on the emissions sources and challenges with quantifying these sources. The CEC has stated they anticipate finalizing the report by June or July 2021.

Comments

- 1) *Purpose of Bill.* According to the author, "Passed in 2008, Senate Bill 375 (Steinberg) aimed to reduce greenhouse gas (GHG) emissions from the transportation sector by requiring metropolitan planning organizations (MPOs) across California adopt land use strategies and prioritize transportation investments that reduce GHGs in long-range plans known as Sustainable Communities Strategies (SCS). The hope of SB 375 was that by requiring MPOs to adopt plans that achieve long-term GHG reduction goals, different land use and transportation investment decisions would be made, resulting in changes in travel behavior that would drive down emissions from passenger vehicles. Unfortunately, changes in land use and travel behavior have not occurred as quickly as many had hoped. A greater focus on near-term action is needed.

"In addition, SB 375's single focus on GHG creates challenges for local and regional agencies seeking to make progress on other important state goals – such as affordable housing and climate resilience – creating tension with other state laws. The types of land use policies and decisions that might be critical to protecting a community from climate risk or avoiding economic displacement are not always aligned with those that minimize GHG emissions. State law needs to provide greater guidance as to how MPOs should approach these difficult trade-offs and identify win-win solutions."

- 2) *Senate Housing Committee comments.* Due to timing and logistical constraints created by the COVID-19 pandemic, the referral of this bill to the Senate

Housing Committee was rescinded by the Senate Rules Committee. In lieu of a more complete hearing, Senate Housing provided the following comments on SB 475:

“Sustainable communities strategies (SCS’s) demonstrate how each region will meet its GHG emission reduction targets through land use, housing, and transportation strategies. Each SCS is informed by regional housing needs allocations (RHNA) and local housing elements, which help each region plan how to meet its housing need. HCD allocates a RHNA share to each region, and each region in turn distributes its RHNA share among the cities and counties in its jurisdiction. Each city and county prepares a housing element that plans to meet its existing and projected housing need, including its share of the region’s housing need. This bill requires ARB to collaborate with HCD and the CTC in setting new guidelines for SCS’s. It also requires ARB to update regional GHG emission reduction targets every four years and to ensure, in doing so, that the targets are achievable within the context of each region’s approach to meeting state housing and climate adaptation goals. Such collaboration could help ensure that state priorities for land use, housing, transportation, and GHG emission reduction, which sometimes conflict, are addressed in a way that gives each equal weight.”

- 3) *Weighing the pros and cons to eliminating Alternative Planning Strategies.* In addition to the guidelines for SCSs, SB 375 also allowed MPOs to submit an APS if their SCS was unable to achieve their GHG emissions reduction targets. SB 475 would remove that option, and require all MPOs to submit an SCS. Under current law, an APS must identify the impediments to achieving the targets within the SCS and describe why the development pattern, measures, and policies in the APS are the most practicable choices for achieving the reduction targets. However, an APS is not constrained by the same considerations of funding or feasibility as an SCS is. While an APS does allow for the same CEQA streamlining privileges as an SCS, it does not provide all the same funding eligibilities, specifically projects receiving SB 1 (Beall, 2017) funds.

In practice, no MPO has relied on an APS in the 12-plus years since SB 375 was signed into law. The Merced County Association of Governments initially submitted an SCS that did not achieve the ARB-mandated GHG emission reduction targets, and they undertook the state’s first APS preparation. However, subsequent changes made to the SCS made it compliant, and the final plan aligns with the updated GHG emission reduction targets. Considering that an APS is less useful for achieving vital emission reductions in practice than an SCS, and that every MPO now has successfully prepared an

SCS, there is a case to be made for eliminating the APS option.

On the other hand, it is worth considering that, should state-mandated emission reduction goals prove infeasible for an MPO in the future, an APS provides something of a release valve. MPOs are required under federal law to submit an RTP in order to be eligible for some transportation funding. If a region's resources would make compliance with state GHG emission reduction goals truly infeasible, they would be unable to get their SCS approved by the state, which could jeopardize their federal RTP approval as well. Eliminating the APS could also affect the political landscape around any subsequent changes to the SCS requirements or targets. Any future proposal to increase SCS program ambition would likely meet fervent opposition from stakeholders to whom, without the safety net of an APS, an unachievable SCS target means drastically reduced funds.

Moving forward, the author should continue to consider what solution would best serve the goal of the SCS. Despite being unused to date and not including feasible proposals, it should be considered whether the APS mechanism might provide valuable flexibility for complying with climate-aligned transportation and land-use planning goals in the future.

- 4) *Building decarbonization – something's gotta give.* As written, SB 475 would add a clause to the SCS requirements that instructs CEC, in consultation with CPUC, ARB, and CAISO, to set regional building decarbonization goals for each MPO. This would be the first time that building decarbonization is included within an SCS, and its inclusion both expands the role of an SCS well beyond the Regional Transportation Plan (of which the SCS is only part). Given the lack of progress in GHG emission reductions under current practices, this approach is worth consideration.

If a region seeks to house more residents while reducing the associated emissions, the MPO can direct housing to be built to a greater density. However, should sufficiently greater density prove to be unachievable, the region can still increase housing stock while minimizing emissions by decarbonizing those buildings. Given the inadequate progress made on reducing regions' GHG emissions through land use and transportation planning under SCSs to date, integrating building decarbonization into planning processes could provide an important avenue to achieve direly needed emissions reductions.

However, the addition of a building decarbonization element to the SCS is beyond the purview of transportation planning. There seems to be a tension

between the desire for an SCS to 1) describe a holistic, low-emission growth scenario and 2) fit within the MPO's Regional Transportation Plan. *Moving forward, the author may wish to consider relieving this tension by either removing the building decarbonization provision from the RTP and linking it to SCS compliance in another way or targeting it more specifically to transportation planning.*

- 5) *Adaptation and resilience.* SB 475 would also mark the first explicit inclusion of climate adaptation and resilience in the SCS framework. As Californians continue to face the higher temperatures, rising seas, drying landscapes, and shifting weather patterns that climate change creates, it will become even more imperative that our communities and infrastructure are prepared for the worst. This would also expand the scope of an SCS, but is likely more in line with what is necessary and appropriate for an RTP to include to provide long- and short-term transportation planning guidance.

While programs like the Integrated Climate Adaptation and Resiliency Program (ICARP) in OPR are in place to develop holistic strategies to coordinate climate activities and the state, regional, and local levels, it is important that those considerations be included in planning documents like SCSs. Doing so will be essential to serve residents as the climate continues to change over the time scale the SCS contemplates. A development plan that creates affordable, quality housing close to jobs and is served by a multimodal transportation system is great, but if it quickly buckles under predictable levels of sea level rise, shifting fire risk, or increased temperature, it does a disservice to the community it serves.

Given the relevancy of OPR's work coordinating efforts in the adaptation and resiliency space, going forward the author may wish to consider including OPR in the Collaborative to improve coordination with existing efforts.

- 6) *A multiplicity of SCS fixes.* The entire SCS (and APS) program is codified within the RTP requirements in one section of the Government Codes (GOV §65080). Currently, three bills in the Legislature would amend this same code section. This bill—SB 475, SB 261 (Senator Allen's proposal to, in part, add explicit vehicle mile traveled (VMT) reduction targets, which was previously heard in this committee on 3/15/21), and AB 1147 (Assemblymember Friedman's proposal to, in part, require MPOs to prepare a 2035 target action plan). While each bill will be evaluated on its own merits, the authors should coordinate before the bills are sent to the Governor, to ensure three separate but conflicting amendments to GOV §65080 are not proposed.

In order to ensure the Legislature can thoughtfully address the implementation issues that have plagued SB 375 over the last 12-plus years, the authors of these measures may wish to consider holding one or more of the bills over in policy committee until the second year of the session. It is the understanding of the committee that the authors of SBs 475 and 261 have agreed to do so, and should the committee pass SB 475 out today, the committee will still remain involved in the discussions surrounding the bills while they remain in the Senate Transportation Committee.

Given the commitment by the author to hold this bill in the next committee and continue working collaboratively with stakeholders, committee staff, and the authors of other SCS bills currently before the Legislature, the committee may wish to approve this measure without amendments today, while maintaining the right to bring the bill back before the committee if warranted by subsequent amendments.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Transportation Committee.

Related/Prior Legislation

SB 261 (Allen, 2021) Tasks the ARB with devising new GHG emission reduction targets for the automobile and light truck sector—as well as adding VMT reduction targets—to the requirements for SCS plans. SB 261 is currently before the Senate Transportation Committee.

AB 1147 (Friedman, 2021) Requires each MPO submit a 2035 target action plan by July 1, 2023 to identify barriers in meeting regional GHG emissions reduction targets and establishes the SCS Block Grant Program. AB 1147 is currently before the Assembly Natural Resources Committee.

SB 30 (Cortese, 2021) requires any new state agency facilities to be built without connection to the natural gas grid, and for the Department of General Services to make a plan for all state-owned buildings to achieve carbon-neutral operations by January 1, 2035. SB 30 is currently before the Senate Governmental Organization Committee.

SB 31 (Cortese, 2021) explicitly incorporates building decarbonization within several aspects of electric utility ratepayer funded programs and within future, yet to be provided, federal moneys to address economic recovery, and incorporates requirements for prevailing wage, as specified. SB 31 is currently before the Senate Energy, Utilities, and Communications Committee.

SB 32 (Cortese, 2021) requires local governments to include plans for building decarbonization into appropriate elements of their general plan and other planning documents. SB 32 is currently before the Senate Governance & Finance Committee.

SB 68 (Becker, 2021) includes numerous provisions related to actions to reduce GHG emissions from the building sector, including: requiring the CEC to develop and publish a guide for electrification of buildings, authorize ratepayer moneys from the EPIC program for projects that reduce the costs of building electrification, and others. SB 68 is currently before the Senate Energy, Utilities, and Communications Committee.

SB 1477 (Stern, Chapter 378, Statutes of 2018) required the CEC to develop a statewide market transformation initiative to transform the state's market for low-emission space and water heating equipment for new and existing residential and nonresidential buildings and to develop an incentive program to fund near-zero emission technology for new residential and commercial buildings.

SB 146 (Beall, Chapter 177, Statutes of 2020) makes several changes to allow certain public agencies to use electronic communication platforms via the Internet for public engagement during the development of an SCS, as specified. SB 146, by having a January 1, 2023 sunset for its provisions, creates a version of GOV §65080 that becomes inoperative on that date.

SOURCE: Author

SUPPORT:

None received

OPPOSITION:

None received

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