



SB 375 –
“THE MOST IMPORTANT LAND
USE LEGISLATION IN 30
YEARS”

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AB 32 WHERE IT BEGAN



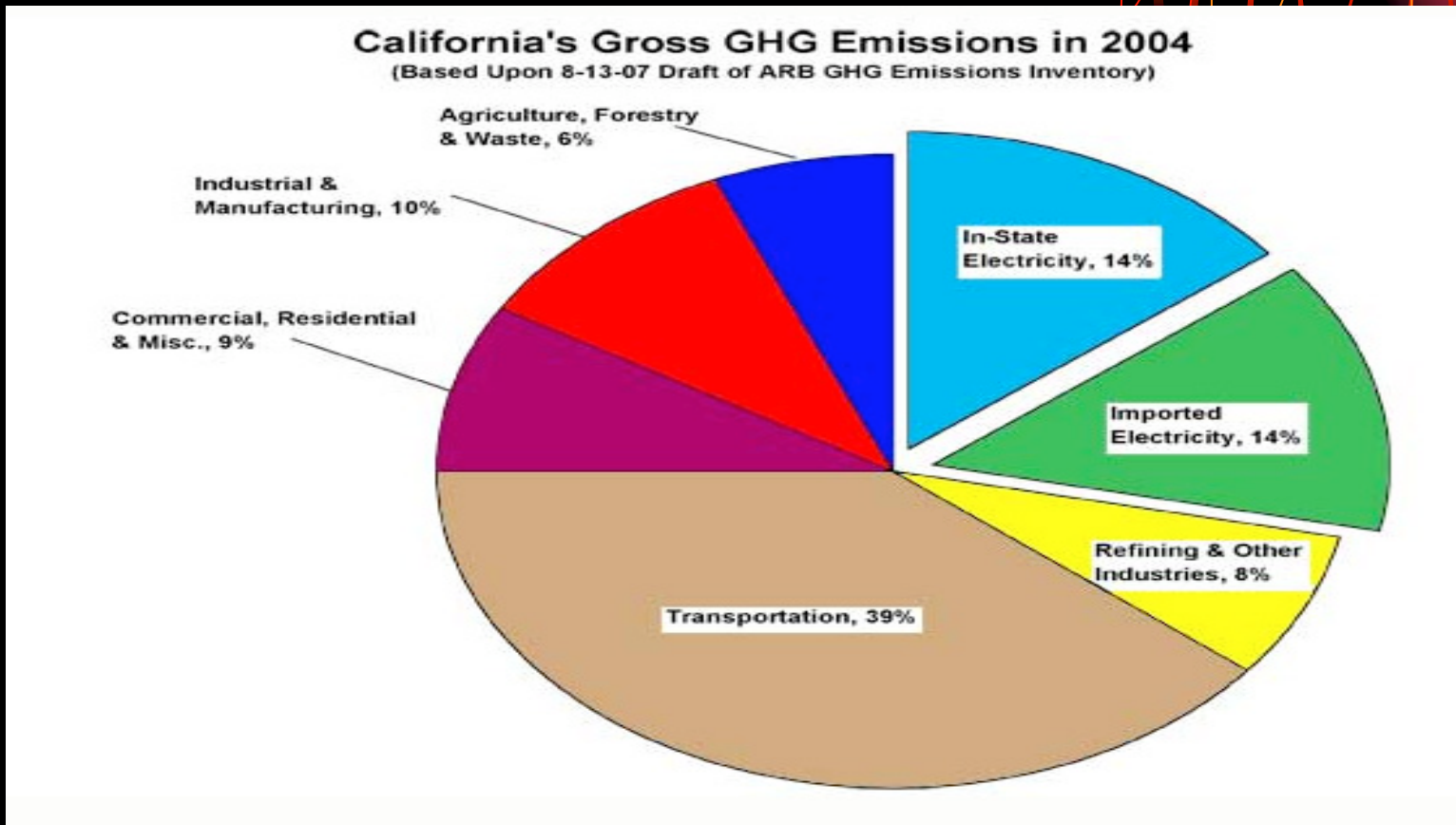
“Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California.”

AB 32 STATEWIDE TARGETS



- AB 32 sets *statewide* GHG reduction targets.
 - 1990 levels by 2020, subject to “business as usual” adjustment.
 - 80% below 1990 levels by 2050.
 - Regulations by 2012.
 - Funded by fees targeted at largest emitters.

ROLE OF TRANSPORTATION AND DEVELOPMENT IN CLIMATE CHANGE



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GOING LOCAL

- How do *AB 32 statewide* GHG reduction targets translate to the regional and local levels?
 - Local discretion in projecting growth, establishing densities, designing zoning?
 - Rural v. urban?
 - Regional transportation planning?
 - CEQA review
 - Local agency Climate Action Plans?

OVERVIEW OF SB 375



- Signed into law on 9/30/2008.
- Aimed at reducing statewide GHG emissions through regional transportation planning and regional housing needs allocations.
- Provides a process to incorporate GHG reduction emission targets into plans for local residential growth and regional transportation.

SB 375 TIMELINE



- 1/31/09: ARB appointed the Regional Targets Advisory Committee (RTAC) for setting regional GHG reduction targets.
- 9/30/09: The RTAC must provide its recommendations to ARB.
- 6/30/09: ARB must provide draft GHG reduction targets to each region for review.
- 9/30/10: ARB must issue final regional reduction targets.
- 10/1/10: Regional transportation agencies must begin preparation of sustainable communities strategies (SCSs) reflecting the GHG reduction targets.

SB 375 TIMELINE

(cont'd)



Once the new Regional Transportation Plans (RTPS) with SCSs are adopted:

- Councils of governments (COGs) must align their regional housing needs assessments (RHNA) with the new RTPs.
- Municipalities must align their housing elements and zoning with the new RHNA.
- Deadline:
 - 3 years after the housing element is adopted or
 - 90-days from receipt of HCD's comments.
 - Extended by 1 year if accompanied by major revisions to the Housing Element.

REGIONAL TRANSPORTATION PLANNING OVERVIEW



- MPOs are to develop RTPs that *“encourage and promote the safe and efficient development, management, and operation of surface transportation systems to serve the mobility needs of people and freight and foster economic growth and development, while minimizing transportation-related fuel consumption and air pollution.”*
- Under federal law, RTPs should reflect the land uses designated in city and county general plans.

DEVELOPMENT OF REGIONAL GHG EMISSION REDUCTION TARGETS



- ARB's Proposed Scoping Plan estimates that regional transportation-related GHGs can be reduced by 5 metric tons.
- ARB and the RTAC are developing passenger vehicle GHG targets for each metropolitan planning organization (MPO).
 - For 2020 and 2035.
 - To be achieved solely by changes in development patterns.
 - Final initial targets by 9/30/10.
 - Updates every 4-8 years.

DEVELOPMENT OF SUSTAINABLE COMMUNITIES STRATEGIES (SCS)



- Each MPO is to develop an SCS.
- The SCS incorporates ARB's GHG emission reduction targets.
- If the MPO determines that the SCS will not meet the region's GHG targets, it must also adopt an alternative planning strategy (APS).
- The RTP must be internally consistent with the SCS.

SCS COMPONENTS

- Consideration of existing densities and uses;
- Projections for population growth in the region;
- Identification of existing transportation networks;
- Identification of areas that can accommodate an 8-year projection of housing needs; and
- Forecast of a development pattern that can be integrated with transportation networks.

SCS ADOPTION PROCESS



- MPOs must obtain input from the city councils and county boards of supervisors.
- Public participation must include outreach, workshops throughout the region, circulation of a draft SCS, and at least 3 public hearings.
- If the SCS is unable to achieve the GHG reduction target, MPOs must prepare an APS.
- The SCS and APS must be submitted to and approved by ARB.
 - ARB has 60 days from submission to decide.

SUBREGIONAL PLANNING



- When an MPO serves multiple counties, SB 375 permits subregional COGs to prepare a tailored subregional SCS or APS.
- Cities within SCAG may work with subregional councils to develop a subregional SCS or APS.
- The subregional SCS will be included in the regional SCS, subject to the MPO's review.

SCS/APS ENFORCEMENT



- SB 375 does not specify any penalties for failure to achieve the regional targets or failure to implement the SCS or APS.
- SB 375 does reserves state transportation funding for projects that are consistent with the RTP/SCS.
 - Regional MPO board members (local elected officials) make most transportation funding decisions.
 - Transportation projects programmed for funding *on or before December 31, 2011* are not required to be consistent with SCSs.

RHNA ENFORCEMENT



- Cities and counties must report to the HCD on their actions to comply with the RHNA. This report must be presented at a public meeting and allow for public testimony/comment.
- If a jurisdiction fails to rezone as required, it will be restricted in its ability to disapprove or condition a housing development project with at least 49% of the units for low/moderate income households.
 - Any disapproval will have to be made with written findings in the record showing a specific, adverse, and unavoidable public health or safety impact.
- If an action is successfully brought against a jurisdiction for its failure to rezone as required, the court shall issue a judgment compelling the rezoning and may issue sanctions on the jurisdiction for continued non-compliance.

LOCAL LAND USE IMPLICATIONS



- “Neither a SCS nor a APS regulates the use of land.”
- “Nothing in a SCS shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region.”
- “Nothing in this section shall require a city’s or county’s land use policies and regulations, including its general plan, to be consistent with an RTP or an APS.”

BUT ...



- RTPs are required to reflect land uses in city and county General Plans and to be internally consistent with SCSs.
 - How can RTPs do this when General Plans and SCSs are at odds?
- SB 375 requires the Housing Element of a city or county General Plan to include its share of the RHNA, which must be consistent with its RTP/SCS, and requires the city or county to rezone if necessary to accommodate its RHNA.

And, for Federal Transportation Projects Subject to Air Quality Conformity Requirements ...



- The RTP must be consistent with the State Implement Plan (SIP).
- Does this mean that the SCSs would need to be consistent with the SIP?

IMPACT OF SB 375 ON DEVELOPMENT



- In accordance with the SCS, a greater share of the housing allocation likely will be allotted to communities that are close to transportation systems and job centers.
- Greater allocations in major urban centers may result in zoning changes that increase opportunities for the development of infill, high density, residential projects.
- If a jurisdiction fails to rezone within the requisite time frame, is it prohibited from rejecting or conditioning projects that comport with the RHNA?

RELATIONSHIP TO CEQA REVIEW PROCESS



- SB 375 states that *inconsistency* with the SCS or APS shall not be considered in the CEQA review process.
- But SB 375 does allow limited consistency analysis to streamline CEQA review for certain residential projects that comply with the SCS.
- Due to extensive restrictions, application of a CEQA “exemption” would be rare.

"SUSTAINABLE COMMUNITIES PROJECT" CEQA EXEMPTION



- After a public hearing, if a "transit priority project" is found to be a "sustainable communities project" consistent with the SCS or APS, the project will be partially exempted from CEQA review.
 - The exemption only applies if the "transit priority project" is consistent with the SCS or APS.
 - A "transit priority project" is one that contains 50% residential use, provides a minimum net density of 20 dwelling units per acre, and is within one-half mile of a major transit stop or high-quality transit corridor.
 - A "sustainable communities project" is heavily conditioned. It must meet lengthy environmental criteria, land use criteria, and additional criteria.

LIMITED CEQA STREAMLINING



- If a “transit priority project” fails to meet the “sustainable communities project” criteria but is consistent with the SCS or APS, the project is eligible for streamlined CEQA review.
 - Must be 75% or more residential.
- For consistent projects, CEQA review is not required for:
 - Growth inducing impacts; or
 - Any project specific or cumulative impacts on global warming or the regional transportation network from car and light truck trips generated by the project.

EFFECT OF PROPOSED CEQA CLIMATE CHANGE GUIDELINES



- How do SB 375's restrictions on consistency review under CEQA mesh with with OPR's new draft climate change guidance on the subject? With ARB's proposed interim threshold of significance?
- Both push municipalities to develop individualized Climate Action Plan elements to General Plans, supported by a certified EIR.
- The Attorney General has been demanding individual agency GHG inventories as well as Climate Action Plans for General Plans etc. in CEQA litigation settlements.

COORDINATION WITH INDIVIDUAL AGENCY CLIMATE ACTION PLANS



What is a “Climate Action Plan”?

“Climate Action Plans incorporated into General Plans ... have inventories, an emissions target, suites of specific and enforceable measures to reach that target, monitoring and reporting, and mechanisms to revise the plan to stay on target.”

- ARB’s Preliminary Draft Interim Climate Change Threshold Staff Report (10/08)

CLIMATE ACTION PLANS

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- Climate Action Plans adopt AB 32 targets as their plan objectives.
- Once adopted, GHG analysis of individual projects contemplated by the plan often may rely on a simple consistency evaluation, according to both ARB and OPR.
- A prior EIR that adequately addressed climate change may be used for tiering purposes.