

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 406**

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**Introduced by Senator DeSaulnier**

February 26, 2009

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An act to amend Section 65040.6 of, and to add Section 65083 to, the Government Code, to amend Section 75125 of the Public Resources Code, and to add Section 9250.6 to the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 406, as amended, DeSaulnier. Land use: environmental quality.

The Planning and Zoning Law establishes the Planning Advisory and Assistance Council in the Office of Planning and Research, and prescribes the membership and duties of the council. Existing law authorizes the Department of Motor Vehicles to collect a surcharge imposed on vehicle registration fees by ordinance or resolution of a local entity.

This bill would change the designated membership, as specified, of the Planning Advisory and Assistance Council and would require that the council work with the Strategic Growth Council, regional agencies, and cities and counties to facilitate the *development and* implementation of *sustainable community strategies or* regional blueprint projects, as specified. The bill would also require the council to report to the Legislature on specified regional performance measures and on the manner in which state agencies are implementing the 5-year infrastructure plan, as specified. The bill would authorize a municipal planning organization, as defined, a council of governments, as defined, or a county transportation commission and a subregional council of

governments jointly preparing a subregional sustainable communities strategy to adopt a resolution to impose a surcharge of ~~up to \$1 or \$2~~ on motor vehicles registered to an owner with an address in the entity's or entities' jurisdiction ~~that~~. *The surcharge would be required to apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution, as specified, and to a renewal of registration with an expiration date on or after that 6-month period. The surcharge would be collected by the Department of Motor Vehicles and, after deducting its administrative costs, would be transmitted to the entity or entities imposing the surcharge. The bill would require that the surcharge revenue that exceeds \$1 be expended to develop and implement a regional blueprint plan and would specify that 5% of all the surcharge revenue be transmitted to the council for performance of its specified functions. The bill would provide that the council is to perform specified new functions only when the council has received sufficient revenue from this source.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares the  
2 following:
- 3 (1) Uncoordinated and unplanned growth together with a lack  
4 of common goals to effect the public's interest in the conservation  
5 and wise use of our lands pose a threat to the environment,  
6 sustainable economic development, and the health, safety, and  
7 high quality of life enjoyed by residents of this state.
- 8 (2) The enactment of Senate Bill 375 of the 2007–08 Regular  
9 Session (Chapter 728 of the Statutes of 2008) and the establishment  
10 of requirements for regional transportation plans to address  
11 greenhouse gases can only be successfully implemented if regional  
12 and local governments have the tools they need to collaboratively  
13 plan for the type of growth that can achieve these goals, and if that  
14 collaborative planning is coordinated with the efforts of the  
15 Governor's Strategic Growth Council and other state agencies as  
16 required by the enactment of Senate Bill 732 of the 2007–08  
17 Regular Session (Chapter 729 of the Statutes of 2008).
- 18 (3) Therefore, it is in the public interest that state residents,  
19 communities, local governments, and the private sector cooperate

1 and coordinate with one another in comprehensive, sustainable  
2 land use planning.

3 (b) It is the intent of the Legislature to update the duties and  
4 composition of the Planning Advisory and Assistance Council to  
5 assist in the state's land use planning processes by providing  
6 funding to support the development and implementation for  
7 regional blueprints and related planning and to work with state  
8 agencies providing funding for resource protection and local  
9 infrastructure to facilitate coordination between state planning and  
10 funding decisions and regional blueprints.

11 SEC. 2. Section 65040.6 of the Government Code is amended  
12 to read:

13 65040.6. (a) The Planning Advisory and Assistance Council  
14 is hereby created within the office, the membership of which shall  
15 be as follows: three city representatives; three county  
16 representatives; seven representatives of regional planning  
17 organizations; one member of the State Air Resources Board; one  
18 member of the California Transportation Commission; one member  
19 of the State Energy Resource Conservation and Development  
20 Commission; one member appointed by the Speaker of Assembly;  
21 one member appointed by the Senate Committee on Rules; and  
22 one representative of Indian tribes and bands which have  
23 reservations or rancherias within California. The city and county  
24 representatives appointed pursuant to this subdivision shall be  
25 selected by the director from nominees submitted by the League  
26 of California Cities and by the California State Association of  
27 Counties. Representatives of regional planning organizations  
28 appointed pursuant to this subdivision shall be selected by the  
29 director from nominees submitted by the regional planning  
30 organizations set forth in paragraphs (1) to (5), inclusive, of  
31 subdivision (b) and from nominees submitted by the California  
32 Association of Councils of Governments for the representatives  
33 of organizations set forth in paragraphs (6) and (7) of subdivision  
34 (b). The representative of Indian tribes and bands shall be a member  
35 of one tribe or band, and shall be selected by the director.

36 Appointment to the advisory council shall be for a term of two  
37 years, provided that the members of the first council shall classify  
38 themselves by lot so that one-half shall serve an initial term of one  
39 year and one-half shall serve an initial term of two years. Vacancies

1 shall be filled in the same manner provided for the original  
2 appointment.

3 (b) Seven of the council's members shall be from the governing  
4 body of each of the following:

5 (1) The Southern California Association of Governments.

6 (2) The Metropolitan Transportation Commission or the  
7 Association of Bay Area Governments. The person appointed to  
8 the council pursuant to this paragraph shall be a member of the  
9 governing body for both the Metropolitan Transportation  
10 Commission and the Association of Bay Area Governments.

11 (3) The San Diego Association of Governments.

12 (4) The Sacramento Area Council of Governments.

13 (5) The San Joaquin Valley Regional Policy Council.

14 (6) A metropolitan planning organization or council of  
15 governments that is not identified in paragraphs (1) to (5),  
16 inclusive.

17 (7) A regional transportation planning agency, as defined in  
18 Section 65080, that is neither a metropolitan planning organization  
19 nor a council of governments.

20 (c) The council shall provide such advice as may be necessary  
21 to assist the office in discharging the requirements of Sections  
22 65040 to 65040.4, inclusive. In particular, the council shall:

23 (1) Assist the office in the preparation of the state long-range  
24 goals and policies, in the manner specified in subdivision (a) of  
25 Section 65040.

26 (2) Evaluate the planning functions of the various state agencies  
27 involved in planning, in the manner specified in subdivision (c)  
28 of Section 65040.

29 (3) Make appropriate decisions and provide such advice and  
30 assistance as may be required by federal statute or regulation in  
31 connection with any federal program administered by the office.

32 (4) Work with the Strategic Growth Council, created pursuant  
33 to Section 75121 of the Public Resources Code, regional agencies,  
34 such as metropolitan planning organizations or councils of  
35 governments, and with cities and counties to facilitate the  
36 implementation of regional blueprint projects.

37 (5) Develop recommendations to the Strategic Growth Council,  
38 created pursuant to Section 75121 of the Public Resources Code,  
39 the Department of General Services, the State Allocation Board,  
40 the Department of Housing and Community Development, the

1 California Transportation Commission, the California Housing  
2 and Finance Agency, and any other state agencies in order to  
3 facilitate coordination between regional blueprint plans and state  
4 growth and infrastructure funding plans.

5 (6) Receive reports, including, but not limited to, a copy of the  
6 five-year infrastructure plan described in Section 13102.

7 (7) Report to the Legislature, in consultation and coordination  
8 with the Strategic Growth Council, created pursuant to Section  
9 75121 of the Public Resources Code, on the manner in which state  
10 agencies are implementing the requirements of Chapter 1016 of  
11 the Statutes of 2002.

12 (8) Report to the Legislature on regional performance measures,  
13 evaluating the progress of each region of the state in improving  
14 results for its residents in employment, environmental protection,  
15 education, housing, mobility, and other criteria as determined by  
16 the council. The council shall provide the Legislature with updates  
17 to the report periodically, as the council determines is required.

18 (d) The council shall meet on call of the director of the office,  
19 who shall convene at least two council meetings during each year.

20 (e) Council members shall serve without compensation, but  
21 they may be reimbursed for actual expenses incurred in connection  
22 with their duties.

23 (f) The council shall begin to perform the functions and other  
24 duties set forth in paragraphs (4) to (8), inclusive, of subdivision  
25 (c) when sufficient funding, as determined by the council, exists  
26 from the revenue transmitted to it by metropolitan planning  
27 organizations, councils of governments, or county transportation  
28 commissions and subregional councils of governments jointly  
29 preparing subregional sustainable communities strategies pursuant  
30 to subdivision (b) of Section 65083.

31 SEC. 3. Section 65083 is added to the Government Code, to  
32 read:

33 65083. (a) A metropolitan planning organization, as defined  
34 in Section 134 of Title 23 of the United States Code, a council of  
35 governments, as defined in Section 65582, or a county  
36 transportation commission and a subregional council of  
37 governments jointly preparing a subregional sustainable  
38 communities strategy pursuant to subparagraph (C) of paragraph  
39 (2) of subdivision (b) of Section 65080 may impose a surcharge  
40 of ~~up to~~ *one dollar (\$1) or two dollars (\$2)* pursuant to Section

1 9250.6 of the Vehicle Code, on a motor vehicle registered to an  
2 owner with an address in its jurisdiction. The surcharge may be  
3 imposed only if the metropolitan planning organization, the council  
4 of governments or a county transportation commission and a  
5 subregional council of governments jointly preparing a subregional  
6 sustainable communities strategy adopts a resolution authorizing  
7 the surcharge. A resolution by the Metropolitan Transportation  
8 Commission or the Association of Bay Area Governments to  
9 impose the surcharge shall be jointly adopted by resolution of both  
10 of those entities, and the revenue from the surcharge shall be  
11 divided in accordance with an agreement between these two  
12 entities. A resolution by a county transportation commission or a  
13 subregional council of governments within the jurisdiction of the  
14 Southern California Association of Governments shall be jointly  
15 adopted by resolution of both of the entities, and the revenue from  
16 the surcharge shall be divided in accordance with an agreement  
17 between the two entities. *The surcharge shall apply to an original*  
18 *vehicle registration occurring on or after six months following the*  
19 *adoption of the resolution by the metropolitan planning*  
20 *organization, council of governments, or a county transportation*  
21 *commission and a subregional council of governments jointly*  
22 *preparing a sustainable communities strategy and to a renewal of*  
23 *registration with an expiration date on or after that six-month*  
24 *period.*

25 (b) All revenue received pursuant to this section shall be used  
26 by the metropolitan planning organization, the council of  
27 governments, or a county transportation commission and a  
28 subregional council of governments jointly preparing a subregional  
29 sustainable communities strategy solely to develop and implement  
30 a sustainable communities strategy or a regional blueprint plan to  
31 identify land use strategies to reduce the use of motor vehicles in  
32 its jurisdiction and thereby reduce emissions into the environment  
33 from motor vehicles. If the surcharge exceeds one dollar (\$1), all  
34 amounts above one dollar (\$1) in a jurisdiction with a population  
35 greater than 300,000 shall be used to provide grants to cities,  
36 counties, and cities and counties for planning and projects related  
37 to the implementation of a regional blueprint plan. The  
38 metropolitan planning organization, the council of governments,  
39 or a county transportation commission and a subregional council  
40 of governments jointly preparing a subregional sustainable

1 communities strategy shall transmit 5 percent of all surcharge  
2 revenue it receives pursuant to Section 9250.6 of the Vehicle Code  
3 to the Planning Advisory and Assistance Council created pursuant  
4 to *within the Office of Planning and Research to perform the*  
5 *functions specified in subdivision (f) of Section 65040.6.*

6 (c) For purposes of this section, a sustainable communities  
7 strategy and an alternative planning strategy shall both be  
8 considered to be a regional blueprint.

9 SEC. 4. Section 75125 of the Public Resources Code is  
10 amended to read:

11 75125. The council shall do all of the following:

12 (a) Identify and review activities and funding programs of  
13 member state agencies that may be coordinated to improve air and  
14 water quality, improve natural resource protection, increase the  
15 availability of affordable housing, improve transportation, meet  
16 the goals of the California Global Warming Solutions Act of 2006  
17 (Division 25.5 (commencing with Section 38500) of the Health  
18 and Safety Code), encourage sustainable land use planning, and  
19 revitalize urban and community centers in a sustainable manner.  
20 At a minimum, the council shall review and comment on the  
21 five-year infrastructure plan developed pursuant to Article 2  
22 (commencing with Section 13100) of Chapter 2 of Part 3 of  
23 Division 3 of the Government Code and the State Environmental  
24 Goals and Policy Report developed pursuant to Section 65041 of  
25 the Government Code.

26 (b) Recommend policies and investment strategies and priorities  
27 to the Governor, the Legislature, and to appropriate state agencies  
28 to encourage the development of sustainable communities, such  
29 as those communities that promote equity, strengthen the economy,  
30 protect the environment, and promote public health and safety,  
31 and is consistent with subdivisions (a) and (c) of Section 75065.

32 (c) Provide, fund, and distribute data and information to local  
33 governments and regional agencies that will assist in developing  
34 and planning sustainable communities.

35 (d) Manage and award grants and loans to support the planning  
36 and development of sustainable communities, pursuant to Sections  
37 75127, 75128, and 75129. To implement this subdivision, the  
38 council may do all of the following:

39 (1) Develop guidelines for awarding financial assistance,  
40 including criteria for eligibility and additional consideration.

- 1 (2) Develop criteria for determining the amount of financial  
2 assistance to be awarded. The council shall award a revolving loan  
3 to an applicant for a planning project, unless the council determines  
4 that the applicant lacks the fiscal capacity to carry out the project  
5 without a grant. The council may establish criteria that would allow  
6 the applicant to illustrate an ongoing commitment of financial  
7 resources to ensure the completion of the proposed plan or project.
- 8 (3) Provide for payments of interest on loans made pursuant to  
9 this article. The rate of interest shall not exceed the rate earned by  
10 the Pooled Money Investment Board.
- 11 (4) Provide for the time period for repaying a loan made  
12 pursuant to this article.
- 13 (5) Provide for the recovery of funds from an applicant that fails  
14 to complete the project for which financial assistance was awarded.  
15 The council shall direct the State Controller to recover funds by  
16 any available means.
- 17 (6) Provide technical assistance for application preparation.
- 18 (7) Designate a state agency or department to administer  
19 technical and financial assistance programs for the disbursing of  
20 grants and loans to support the planning and development of  
21 sustainable communities, pursuant to Sections 75127, 75128, and  
22 75129.
- 23 (e) No later than July 1, 2010, and every year thereafter, provide  
24 a report to the Legislature that shall include, but is not limited to,  
25 all of the following:
- 26 (1) A list of applicants for financial assistance.
- 27 (2) Identification of which applications were approved.
- 28 (3) The amounts awarded for each approved application.
- 29 (4) The remaining balance of available funds.
- 30 (5) A report on the proposed or ongoing management of each  
31 funded project.
- 32 (6) Any additional minimum requirements and priorities for a  
33 project or plan proposed in a grant or loan application developed  
34 and adopted by the council pursuant to subdivision (c) of Section  
35 75216.
- 36 (7) In making recommendations pursuant to subdivisions (a)  
37 and (b) and in providing data and information pursuant to  
38 subdivision (c), the council shall consult with and coordinate its  
39 recommendations with the Planning Advisory and Assistance

1 Council created pursuant to Section 65040.6 of the Government  
2 Code.

3 SEC. 5. Section 9250.6 is added to the Vehicle Code, to read:

4 9250.6. (a) ~~(1)~~In addition to any other fees specified in this  
5 code, the Health and Safety Code, and the Revenue and Taxation  
6 Code, a surcharge of ~~up to one dollar (\$1) or two dollars (\$2)~~ may  
7 be imposed by a metropolitan planning organization, a council of  
8 governments, or a county transportation commission and a  
9 subregional council of governments jointly preparing a subregional  
10 sustainable communities strategy pursuant to subparagraph (C) of  
11 paragraph (2) of subdivision (b) of Section 65080, and shall be  
12 paid to the department as follows:

13 ~~(A)~~

14 (1) Upon initial registration on or after the date the department  
15 begins collecting the fee for a motor vehicle not previously  
16 registered in this state that is registered to an owner with an address  
17 in the jurisdiction of the metropolitan planning organization, the  
18 council of governments, or the county transportation commission  
19 and the subregional council of governments jointly preparing a  
20 subregional sustainable communities strategy requesting imposition  
21 of the surcharge.

22 ~~(B)~~

23 (2) Upon renewal of registration of a motor vehicle to an owner  
24 with an address in the jurisdiction of the metropolitan planning  
25 organization, the council of governments, or the county  
26 transportation commission and the subregional council of  
27 governments jointly preparing a subregional sustainable  
28 communities strategy requesting imposition of the surcharge for  
29 which the registration period expires after the date the department  
30 begins collecting the fee.

31 ~~(2) This subdivision applies to a motor vehicle subject to Part~~  
32 ~~5 (commencing with Section 43000) of Division 26 of the Health~~  
33 ~~and Safety Code, except a vehicle that is expressly exempted under~~  
34 ~~this code from the payment of registration fees. The department~~  
35 ~~shall begin collecting the fee on January 1 of the year immediately~~  
36 ~~following the date the department receives the request to do so~~  
37 ~~from the metropolitan planning organization or council of~~  
38 ~~governments.~~

39 (b) Prior to the adoption of a surcharge pursuant to this section,  
40 the metropolitan planning organization, the council of governments,

1 or the county transportation commission and the subregional  
2 council of governments jointly preparing a subregional sustainable  
3 communities strategy shall approve the imposition of the surcharge  
4 through the adoption of a resolution, as specified in Section 65083  
5 of the Government Code.

6 (c) The metropolitan planning organization~~—or~~, council of  
7 governments, *or the county transportation commission and the*  
8 *subregional council of governments jointly preparing a subregional*  
9 *sustainable communities strategy* shall pay for the costs identified  
10 by the department to administer the surcharge. After deducting  
11 those costs, the department shall transmit the surcharge revenue  
12 quarterly to the metropolitan planning organization, the council  
13 of governments, or the county transportation commission and the  
14 subregional council of governments jointly preparing a subregional  
15 sustainable communities strategy.

O