

OFFICE OF THE CLERK
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CITY OF OAKLAND

BILL ANALYSIS



Date: May 10, 2007
Bill Number: SB 167
Bill Author: Senator Gloria Negrete McLeod

DEPARTMENT INFORMATION

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RECOMMENDED POSITION: Watch, along with related bills noted on page 2.

Summary of the Bill

Proposition 84 (The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006) was adopted in November, 2006 and authorized \$5.4 billion in state bonds. Five hundred eighty million dollars was mandated for revitalizing communities and making them more sustainable and livable through investing in sound land use planning, local parks and urban greening; \$90 million was further set aside for planning grants and incentives. The State Legislature is directed to appropriate these funds. AB 167 would designate the State Office of Planning and Research (OPR) to administer four programs for general plan revisions, general plan implementation, regional blueprint projects and municipal service reviews and spheres of influence. For Oakland, general plan revisions and general plan implementation would be the most germane.

To receive a grant or loan, competing cities and counties would need to present a budget and seven year schedule for adopting and completing an adequate general plan, commit that it will be in substantial compliance with state law and that it will be reviewed every 10 years. In addition, cities and counties would need to charge fees (such as a surcharge on planning and building permits) to pay for a portion of revising their general plans. For general plan implementation (such as a zoning ordinance update), loans are available that have a 10 year payback period. The legislation also lays out incentives and preferences for a city or county to use in competing for these funds.

Positive Factors for Oakland

Any funding to further sound land use planning is positive. With limited funding resources during the past 30 years, counties and cities have been strapped with the full

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cost of preparing general plans. State planning law has grown more complex and many unfunded mandates have been created. During the fiscal crises of the early 1990's, the State Legislature actually provided relief from Housing Element preparation and revision requirements. Oakland would be at a competitive advantage because the City already charges a General Plan surcharge fee on all planning and building permits.

Negative Factors for Oakland

As presently drafted, there are only minor negative aspects for Oakland. Staff time and follow up would be required to obtain the funding. There is also a judgment call about the amount the City may finally obtain and whether it is worth the administrative and follow through costs if the amount is not substantial. As in most funding cases, it appears worth the time and commitment to obtain these monies given the limited strategic planning budget v. the numerous demands for funds throughout the City.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

X Very Important –


NOTE: There are at least 5 related bills pertaining to distribution of Prop. 84's planning money: SB 292 (Wiggins), SB 669 (Torlakson), SB 732 (Steinberg), AB 997 (Arambula), and AB 1253 (Caballero)

Known support: Unknown at this time.

Known Opposition: Unknown at this time.

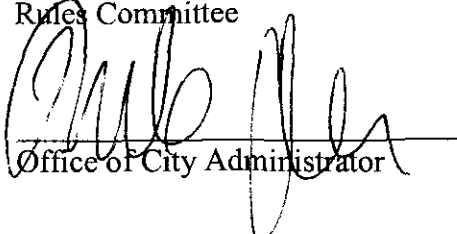
Bill text and state legislative committee analysis is attached.

Respectfully Submitted,



Claudia Cappio, Development Director
CEDA

Approved for Forwarding to
Rules Committee



Office of City Administrator

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BILL NUMBER: SB 167 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 12, 2007

INTRODUCED BY Senator Negrete McLeod

FEBRUARY 1, 2007

An act to add Section 65040.7 to, and to add Article 5.1 (commencing with Section 65310) to Chapter 1.5 of Division 1 of Title 7 of , the Government Code, relating to general plans, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 167, as amended, Negrete McLeod. General plans: planning grants and incentives.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 allocates \$580,000,000 for revitalizing communities and making them more sustainable and livable by investing in sound land use planning, local parks, and urban greening, and specifically authorizes \$90,000,000 for planning grants and incentives, as specified, to encourage, among other things, the development of specified regional and local land use plans. The act also requires that these funds be made available upon appropriation by the Legislature.

Existing law also provides that the Office of Planning and Research (OPR) within the Governor's office serves as the state's comprehensive planning agency in the formulation, evaluation, and updating of, among other things, long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors that shape statewide development patterns and significantly influence the quality of the state's environment.

This bill would require the Governor's Office of Planning and Research to administer ~~a program~~ multiple programs , as specified, to award (1) grants and loans to cities and counties to prepare and adopt general plans, including , among other things, a preference for a grant or loan if one or more criteria are met, (2) loans to cities and counties to prepare and adopt programs to implement city and county general plans, i ncluding specific plans, habitat conservation plans, zoning ordinances, and design standards, (3) grants to councils of governments to prepare regional blueprint projects, and (4) grants and loans to local agency formation commissions to prepare and adopt municipal service reviews and spheres of influence. The bill would also provide that the funding for the programs under (1), (2), and (4) includes the costs of complying with the California Environmental Quality Act (CEQA). The bill would require the OPR to prepare and adopt regulations for this purpose that meet specified criteria and would require the OPR to cooperate with the Secretary of the Resources Agency in any independent audits of expenditures pursuant to these provisions.

The bill would also require the OPR, on or before October 1, 2008,

to conduct a study of the feasibility of integrating the data and analyses derived from the municipal service reviews and spheres of influence adopted by local agency commissions pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

The bill would appropriate \$1,000,000 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 for the 2007-08 fiscal year for the purposes of the bill and would declare the Legislature's intent to appropriate \$80,000,000 in planning grants and incentives for fiscal years 2008-09, 2009-10, 2010-11, and 2011-12. The bill would also authorize the OPR to use no more than 5% of the funds allocated for these purposes to pay the costs of administering this program.

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

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

SECTION 1. Section 65040.7 is added to the Government Code , to read:

65040.7. The office shall administer the programs created by Article 5.1 (commencing with Section 65310).

~~SECTION 1.~~ SEC. 2. Article 5.1 (commencing with Section 65310) is added to Chapter 1.5 of Division 1 of Title 7 of the Government Code, to read:

Article 5.1. Planning Grants and Incentives

65310. (a) The Legislature finds and declares all of the following:

(1) It is necessary and in the public interest to revitalize California's communities and make them more sustainable and liveable by investing in sound land use planning.

(2) At the November 7, 2006, statewide general election, California's voters passed Proposition 84, "The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006," and authorized \$5.4 billion in state bonds.

(3) As added by that act, Section 75065 of the Public Resources Code makes ninety million dollars (\$90,000,000) "available for planning grants and planning incentives, including revolving loan programs and other methods to encourage the development of regional and local land use plans that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers."

(4) As added by that act, Section 75066 of the Public Resources Code requires the Legislature to appropriate those funds to implement those purposes.

(b) In enacting this article, it is the intent of the Legislature to create a program to allocate funds from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) to ~~cities and counties~~

local governments and other public agencies to implement subdivision (c) of Section 75065 of the Public Resources Code.

~~65311. (a) The Office of Planning and Research shall administer a program to award grants and loans to cities and counties for~~

~~preparing and adopting general plans, pursuant to this article, using the funds appropriated for that purpose.~~

~~(b) For the purposes of this article, preparing and adopting general plans shall include the preparation, adoption, and amendment of general plans pursuant to Article 5 (commencing with Section 65300) and Article 6 (commencing with Section 65350), as well as compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

65311. (a) The Office of Planning and Research shall administer a program to award grants and loans to cities and counties for preparing and adopting general plans.

(b) For the purposes of this article, preparing and adopting general plans shall include the preparation, adoption, and amendment of general plans pursuant to Article 5 (commencing with Section 65300) and Article 6 (commencing with Section 65350), as well as compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A grant of state funds to a city or a county for the preparation and adoption of a general plan shall not exceed one-half of the costs of preparing and adopting that general plan. If a city or a county fails to adopt a general plan that has been funded by a grant made pursuant to this section, the Office of Planning and Research shall direct the Controller to recover those funds by any available means.

(d) A loan of state funds to a city or a county for the preparation and adoption of a general plan shall not exceed one-half of the costs of preparing and adopting that general plan. Any loan of state funds to a city or a county for the preparation and adoption of a general plan shall be repaid within 10 years of the adoption of that plan.

(e) In its application to the Office of Planning and Research for a grant or a loan pursuant to this section, a city or a county shall do all of the following:

(1) Submit and declare its intention to follow a detailed budget and schedule for the preparation and adoption of its general plan. The budget and schedule shall be of sufficient detail to allow the Office of Planning and Research to assess the progress of the city or the county at regular intervals. The schedule shall provide for the adoption of a complete and adequate general plan within seven years of the date on which the Office of Planning and Research awarded the grant or the loan.

(2) Declare its intention to prepare and adopt a general plan that will substantially comply with the requirements of Article 5 (commencing with Section 65300).

(3) Declare its intention to prepare and adopt a general plan that will be consistent with the goals of Chapter 9 (commencing with Section 75065) of Division 43 of the Public Resources Code, including general plan goals, policies, standards, and feasible implementation programs that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

(4) Declare its intention to review and, when necessary, revise its general plan every 10 years after the adoption of the general plan funded pursuant to this section.

(5) Submit documents demonstrating that the city or the county has imposed fees pursuant to Section 65104 and subdivision (b) of Section 66014 to generate revenue to pay for a portion of the costs that are reasonably necessary to review and, if necessary, revise the

general plan funded pursuant to this section.

(f) The regulations adopted pursuant to Section 65316 shall require the Office of Planning and Research to give a preference for a grant or a loan pursuant to this section to a city or a county that adopts a resolution that declares its intent to do one or more of the following:

(1) Prepare and adopt a general plan that will support the implementation of a Regional Blueprint Project funded by a Regional Blueprint Planning Grant distributed through the Department of Transportation as part of the federal Safe, Accountable, Flexible and Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59).

(2) Prepare and adopt its general plan in collaboration with the county and all of the cities in the same county.

(3) Prepare and adopt its general plan in collaboration with all of the cities in the same council of governments or in the same subregional council of governments.

(4) Prepare and adopt a general plan that will lead to all of the following:

(A) Implementation of the state's planning policies set by Section 65041.1.

(B) Approval of housing projects over development that generates sales tax revenues.

(C) Conservation, rehabilitation, and enhancement of existing neighborhoods.

(D) Protection and preservation of agricultural land.

(E) Acquisition, protection, and management of open-space land.

(F) Adoption of zoning and development standards that facilitate new affordable housing projects.

(G) Urban revitalization, code enforcement, and sign control.

(H) Cultural resource protection and historic preservation.

(I) Healthy community initiatives, including community greening and safe routes to schools.

(J) Replacement or improvement of critical local infrastructure.

(5) Include in its general plan data and analysis, goals, policies, and objectives, and feasible implementation programs to improve air quality, as required by Section 65302.1.

(6) Include in its general plan data and analysis, goals, policies, and objectives, and feasible implementation programs to improve air quality, even though the city or the county is not required to comply with Section 65302.1.

(7) Include in its general plan data and analysis, goals, policies, and objectives, and feasible implementation programs relating to flood hazard zones, as required by Section _____.

(8) Include in its general plan data and analysis, goals, policies, and objectives, and feasible implementation programs relating to flood hazard zones, even though the city or the county is not required to comply with Section _____.

65312. (a) The Office of Planning and Research shall administer a program to award loans to cities and counties for preparing and adopting programs to implement city and county general plans, including specific plans, habitat conservation plans, zoning ordinances, and design standards.

(b) For the purposes of this article, preparing and adopting programs to implement city and county general plans shall include the preparation and adoption of planning documents, as well as compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A loan of state funds to a city or a county for the preparation and adoption of programs to implement a general plan

shall not exceed one-half of the costs of preparing and adopting those programs. Any loan of state funds to a city or a county for the preparation and adoption of programs to implement a general plan shall be repaid within 10 years of the adoption of those programs.

(d) In its application to the Office of Planning and Research for a loan pursuant to this section, a city or a county shall do all of the following:

(1) Demonstrate to the Office of Planning and Research that it has adopted a complete and adequate general plan within five years of the date on which it applied for the loan.

(2) Declare its intention that the programs to implement the general plan which it will prepare and adopt will further the goals of Chapter 9 (commencing with Section 75065) of Division 43 of the Public Resources Code, including programs that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

65313. (a) The Office of Planning and Research shall administer a program to award grants to councils of governments to prepare regional blueprint projects.

(b) A council of governments shall be eligible to receive a grant pursuant to this section only if the council of governments has not previously received a Regional Blueprint Planning Grant distributed through the Department of Transportation as part of the federal Safe, Accountable, Flexible and Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59).

(c) A grant of state funds to a council of governments for the preparation of a regional blueprint project shall not exceed one-half of the costs of preparing and adopting that project. If a council of governments fails to adopt a regional blueprint project that has been funded by a grant made pursuant to this section, the Office of Planning and Research shall direct the Controller to recover those funds by any available means.

(d) In its application to the Office of Planning and Research for a grant pursuant to this section, a council of governments shall do all of the following:

(1) Submit and declare its intention to follow a detailed budget and schedule for the preparation and adoption of its regional blueprint project. The budget and schedule shall be of sufficient detail to allow the Office of Planning and Research to assess the progress of the council of governments at regular intervals. The schedule shall provide for the adoption of the regional blueprint project within five years of the date on which the Office of Planning and Research awarded the grant.

(2) Declare its intention to prepare and adopt a regional blueprint project which will be consistent with the goals of Chapter 9 (commencing with Section 75065) of Division 43 of the Public Resources Code, including programs that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

65314. (a) On or before October 1, 2008, the Office of Planning and Research shall conduct, or cause to be conducted, a study of the feasibility of integrating the data and analyses derived from the municipal service reviews and spheres of influence adopted by local agency formation commissions pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5.

(b) Based on the results of the feasibility study conducted pursuant to subdivision (a), it is the intent of the Legislature to appropriate funds to carry out a program to integrate the data and analyses from the municipal service reviews and spheres of influence adopted by local agency formation commissions.

65315. (a) The Office of Planning and Research shall administer a program to award grants and loans to local agency formation commissions for preparing and adopting the municipal service reviews and the spheres of influence that must be reviewed and updated after the January 1, 2008, deadline established by subdivision (g) of Section 56425, but on or before January 1, 2013.

(b) For the purposes of this article, preparing and adopting municipal service reviews and spheres of influence shall include the activities described in Chapter 4 (commencing with Section 56425) of Part 2 of Division 3 of Title 5, as well as compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A grant of state funds to a local agency formation commission for the preparation and adoption of municipal service reviews and spheres of influence shall not exceed one-half of the costs of preparing and adopting the municipal service reviews and spheres of influence. If a local agency formation commission fails to adopt a sphere of influence that has been funded by a grant made pursuant to this section, the Office of Planning and Research shall direct the Controller to recover those costs by any available means.

(d) A loan of state funds to a local agency formation commission for the preparation and adoption of municipal service reviews and spheres of influence shall not exceed one-half of the costs of preparing and adopting the municipal service reviews and spheres of influence. Any loan of state funds to a local agency formation commission for the preparation and adoption of municipal service reviews and spheres of influence shall be repaid within five years of the adoption of those spheres of influence.

(e) In its application to the Office of Planning and Research for a grant or a loan pursuant to this section, a local agency formation commission shall do all of the following:

(1) Submit and declare its intention to follow a detailed budget and schedule for the preparation and adoption of its municipal service reviews and spheres of influence. The budget and schedule shall be of sufficient detail to allow the Office of Planning and Research to assess the progress of the local agency formation commission at regular intervals. The schedule shall provide for the review and, if necessary, revision of spheres of influence on or before January 1, 2013.

(2) Declare its intention that it will prepare and adopt spheres of influence that will substantially comply with the requirements of Chapter 4 (commencing with Section 56425) of Part 2 of Division 3 of Title 5.

(3) Declare its intention to prepare and adopt spheres of influence that will be consistent with the goals of Chapter 9 (commencing with Section 75065) of Division 43 of the Public Resources Code, including goals, policies, and standards that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

(4) Submit documents demonstrating that the local agency formation commission has imposed fees pursuant to Section 56383 and subdivision (b) of Section 66014 to generate revenue to pay for a portion of the costs that are reasonably necessary to review and, if

necessary, revise the spheres of influence funded pursuant to this section.

(f) The regulations adopted pursuant to Section 65316 shall require the Office of Planning and Research to give a preference for a grant or a loan pursuant to this section to a local agency formation commission that adopts a resolution that declares its intent to do one or more of the following:

(1) Prepare and adopt spheres of influence that will support the implementation of a Regional Blueprint Project funded by a Regional Blueprint Planning Grant distributed through the Department of Transportation as part of the federal Safe, Accountable, Flexible and Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59).

(2) Prepare and adopt its municipal service reviews and spheres of influence in collaboration with preparation and adoption of general plans by the county and all of the cities in the same county.

(3) Prepare and adopt its municipal service reviews and spheres of influence in collaboration with the preparation and adoption of general plans by all of the cities in a council of governments or in the same subregional council of governments.

~~65312.~~ 65316. (a) On or before October 1, 2008, and consistent with the state's planning priorities set by Section 65041.1, the Office of Planning and Research shall prepare and adopt regulations for the award of grants and loans pursuant to this article.

(b) In preparing these regulations, the Office of Planning and Research shall consult with all of the following:

(1) State agencies and departments that are interested in regional and local land use plans, including, but not limited to, the Business, Transportation and Housing Agency, the Resources Agency, the California Infrastructure and Economic Development Bank, and the Department of Finance.

(2) Representatives of cities, counties, councils of government, and other regional and local agencies that are interested in regional and local land use plans.

(3) Associations, organizations, groups, and individuals that are interested in regional and local land use plans.

(c) The regulations adopted by the Office of Planning and Research shall do all of the following:

(1) Include criteria for determining the amounts of grants and loans made pursuant to this article, based on the ability of the city, the county, the council of governments, or the local agency formation commission to raise revenue.

(2) Provide for the payment of interest on loans made pursuant to this article. The rate of interest shall not exceed the rate earned by the Pooled Money Investment Board.

(3) Provide for the recovery of grant funds from a city or a county that fails to adopt a general plan that has been funded by a grant made pursuant to this article. The Office of Planning and Research shall direct the Controller to recover funds by any available means.

(4) Provide for the recovery of grant funds from a council of governments that fails to adopt a regional blueprint project that has been funded by a grant made pursuant to this article. The Office of Planning and Research shall direct the Controller to recover funds by any available means.

~~(e)~~
(d) The Office of Planning and Research shall adopt these regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2.

~~65313. The regulations adopted pursuant to Section 65312 shall provide all of the following:~~

~~(a) A grant of state funds to a city or a county for the preparation and adoption of a general plan shall not exceed one third of the costs of preparing and adopting that general plan. If a city or a county fails to adopt a general plan that has been funded by a grant made pursuant to this article, the Office of Planning and Research shall recover those funds.~~

~~(b) In addition to a grant made pursuant to subdivision (a), the Office of Planning and Research may loan state funds to a city or a county for the preparation and adoption of a general plan. The combined amount of the grant and the loan shall not exceed half of the total costs of preparing and adopting that general plan. Any loan of state funds to a city or a county for the preparation and adoption of a general plan shall be repaid within five years of the adoption of that general plan.~~

~~65314. At a minimum, the regulations adopted pursuant to Section 65312 shall require a city or a county that accepts a grant or a loan to prepare and adopt a general plan to agree to the following standards:~~

~~(a) Submit and follow a detailed budget and schedule for the preparation and adoption of its general plan. The budget and schedule shall be of sufficient detail to allow the Office of Planning and Research to assess the progress of the applicant at regular intervals. The schedule shall provide for the adoption of a complete and adequate general plan within two years of the date that the Office of Planning and Research awards the grant or the loan.~~

~~(b) Follow the state's planning priorities set by Section 65041.1.~~

~~(c) Follow the general plan guidelines adopted pursuant to Section 65040.2.~~

~~(d) Regularly revise its general plan every 10 years thereafter.~~

~~(e) Impose fees pursuant to subdivision (b) of Section 66014 that include some of the costs reasonably necessary to regularly revise its general plan thereafter.~~

~~(f) Fully implement the policies and procedures for all of the following:~~

~~(1) Consistency with airport land use plans pursuant to Section 65302.3.~~

~~(2) School siting pursuant to Section 65352.2.~~

~~(3) Consultation with California Native American tribes pursuant to Section 65352.3.~~

~~(4) Water supply planning pursuant to Section 65352.5.~~

~~65315. The regulations adopted pursuant to Section 65312 shall require the Office of Planning and Research to give a preference to an application for a grant or a loan to prepare and adopt a general plan from a city or county that does all of the following:~~

~~(a) Participates in a Regional Blueprint Project, funded by a Regional Blueprint Planning Grant through the Department of Transportation.~~

~~(b) Agrees to prepare and adopt its general plan in collaboration with all of the cities in the same county.~~

~~(c) Agrees to approve development projects that are consistent with its general plan "by right" during the first five years of the adoption of the general plan.~~

~~(d) Is subject to the requirements of Section 65302.1.~~

~~(e) Contains flood hazard zones.~~

~~65316. 65317. In administering the program of grants and loans for the preparation and adoption of~~

general plans established by this article, the Office of Planning and Research shall do all of the following:

(a) Assist ~~cities and counties~~ cities, counties, councils of government, and local agency formation commissions with the preparation of their applications for grants and loans ~~for preparing and adopting general plans~~ pursuant to this article.

(b) Solicit and coordinate the provision of technical assistance by state departments and agencies to ~~cities and counties~~ cities, counties, councils of government, and local agency formation commissions pursuant to subdivision (i) of Section 65040 and Section 65040.3.

(c) Solicit and coordinate the review of draft general plans by state departments and agencies pursuant to Article 5 (commencing with Section 65300) and Article 6 (commencing with Section 65350).

(d) Review and comment on draft general plans funded pursuant to this article.

~~65317.~~ 65318. Pursuant to Section 75070.5 of the Public Resources Code, the Office of Planning and Research shall not use more than 5 percent of the funds allocated for the purposes of this article to pay the costs incurred in the administration of that program.

~~65318.~~ 65319. Pursuant to Section 75078 of the Public Resources Code, the Office of Planning and Research shall cooperate with the Secretary of the Resources Agency in any independent audits of expenditures pursuant to this article.

~~SEC. 2.~~ SEC. 3. For the 2007-08 fiscal year, the Legislature hereby appropriates the sum of one million dollars (\$1,000,000) from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 to the Office of Planning and Research for the purposes of Article 5.1 (commencing with Section 65310) of Chapter 1.5 of Division 1 of Title 7 of the Government Code.

~~SEC. 3.~~ SEC. 4. It is the intent of the Legislature to appropriate the following sums from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 to the Office of Planning and Research for allocation, pursuant to Article 5.1 (commencing with Section 65310) of Chapter 1.5 of Division 1 of Title 7 of the Government Code:

- (a) In fiscal year 2008-09, ten million dollars (\$10,000,000).
- (b) In fiscal year 2009-10, fifteen million dollars (\$15,000,000).
- (c) In fiscal year 2010-11, fifteen million dollars (\$15,000,000).
- (d) In fiscal year 2011-12, five million dollars (\$5,000,000).

Regional blueprint projects.
Municipal service reviews and spheres of influence.

I. General Plan Revisions . Under the Planning and Zoning Law, every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. Depending on the community's location, general plans must also contain special topics, including local coastal plans, waste management, hazardous waste, seismic hazards, floodplain management, and airport land use. Local officials can also adopt optional elements for topics that are important to their communities. All major land use decisions must be consistent with their communities' general plans: zoning, subdivision approvals, use permits, and public works.

This requirement for vertical consistency gives meaning to general plans. The vertical consistency requirement also means that opponents can challenge the approval of development projects and infrastructure projects if the underlying general plan is obsolete. An out-dated general plan is not an adequate legal basis for making the required consistency findings. In 2006, OPR identified 304 cities and 39 counties that have not comprehensively revised their general plans in the last 10 years.

Senate Bill 167 requires OPR to award grants and loans to cities and counties to pay for preparing and adopting general plans, including the costs of complying with the California Environmental Quality Act (CEQA). The grants and loans can pay for up to half of these costs. If a city or county fails to adopt a general plan funded with one of these grants, SB 167 directs OPR and the State Controller to recover those funds by any available means. The bill requires cities and counties to repay their general plan loans within 10 years after adopting their plans.

To get a grant or loan, SB 167 requires a city or county to meet five minimum conditions:

Present a budget and a seven-year schedule for preparing and adopting a complete and adequate general plan.

Declare that the general plan will substantially comply with the requirements of state law.

Declare that the general plan will be consistent

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with Proposition 84's goals.

Declare that it will review and, when necessary, revise its general plan every 10 years.

Charge fees to pay for a portion of the costs of revising its general plan.

SB 167 requires OPR to give a preference to a city or county that intends to:

Prepare a general plan that supports the implementation of a Regional Blueprint Project.

Prepare its general plan in collaboration with the county and all the cities.

Prepare its general plan in collaboration with the cities in the same council of governments or same subregional council of governments.

Prepare its general plan so that it will lead to 10 specified results.

Include air quality concerns, where required by existing law.

Include air quality concerns, even if that's not required by law.

Include flood hazards, as required by an unspecified law.

Include flood hazards, even if that's not required by the unspecified law.

II. General Plan Implementation . After city councils and county boards of supervisors adopt their general plans, they begin to carry out their goals and policies by adopting specific plans, habitat conservation plans, zoning ordinances, design standards, and other implementation devices. Some cities and counties have recently revised their general plans. They don't need state help to research and write land use policies, but they want the state's help to implement them.

Senate Bill 167 requires OPR to award loans to cities and counties to prepare and adopt programs to implement their general plans, including the cost of complying with CEQA. The loans can pay for up to half of these costs. The bill requires cities and counties to repay their general plan implementation loans within 10 years after adopting their

implementation programs.

To get a general plan implementation loan, SB 167 requires

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a city or county to:

Demonstrate to OPR that it adopted a complete and adequate general plan within the last five years.

Declare that its implementation program will further Proposition 84's goals.

III. Regional Blueprint Projects . Using federal funds from the Safe, Accountable, Flexible and Efficient Transportation Act: A Legacy for Users (SAFETY-LU), Caltrans has awarded grants to metropolitan planning organizations to prepare Regional Blueprint Projects. Looking forward 20 years, public officials and stakeholders come up with preferred growth scenarios called "blueprints" that combine land use planning, transportation planning, housing supply, jobs-housing proximity and balance, and environmental and natural resource concerns. Caltrans made \$5 million a year available in 2006 and 2007. Some rural counties that have not received Caltrans grants may be interested in preparing their own Regional Blueprint Projects.

Senate Bill 167 requires OPR to award grants to councils of government (COGs) to prepare regional blueprint projects. The grants can pay for up to half of these costs. To be eligible for a regional blueprint grant, a COG cannot have previously received a Caltrans Regional Blueprint Planning Grant. If a COG fails to adopt a regional blueprint project funded with one of these grants, SB 167 directs OPR and the State Controller to recover those funds by any available means.

To get a regional blueprint project grant, SB 167 requires a COG to:

Present a budget and a five-year schedule for preparing and adopting the regional blueprint project.

Declare that its regional blueprint will further Proposition 84's goals.

IV. Feasibility Study . The Cortese-Knox-Hertzberg Act creates a local agency formation commission (LAFCO) in each county with the power to plan and govern the boundaries of cities and special districts. A LAFCO must review and revise a "sphere of influence" for each city and special

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district in its county. A sphere of influence shows the city or district's service area and boundaries. Before they prepare or update these spheres of influence, the LAFCOs must conduct "municipal service reviews."

By preparing municipal service reviews and spheres of influence, the LAFCOs have created important collections of data and analysis about water supplies, sewer services, fire protection, parks and recreation, and other local facilities and services. The LAFCOs know which agencies provide particular services and the location of important facilities. But this information exists only within each county. Local officials, builders, planners, and the public cannot easily retrieve or use this important information. Some LAFCOs think that it may be feasible to find a way to share these resources.

Senate Bill 167 requires OPR to conduct a feasibility study that looks at how the data and analyses from LAFCOs' municipal service reviews and spheres of influence could be integrated. OPR's deadline is October 1, 2008. The bill declares the Legislature's intent to use the results of OPR's feasibility study to fund a program to integrate these data and analyses.

V. Municipal Service Reviews and Spheres of Influence . The Cortese-Knox-Hertzberg Act creates a local agency formation commission (LAFCO) in each county with the power to plan and govern the boundaries of cities and special districts. A LAFCO must review and revise a "sphere of influence" for each city and special district in its county. A sphere of influence shows the city or district's service area and boundaries. Before they prepare or update these spheres of influence, the LAFCOs must conduct "municipal service reviews."

The deadline for LAFCOs to review and revise their spheres

of influence is January 1, 2008, and then every five years thereafter. When the Legislature set these deadlines, it didn't give money to the LAFCOs.

Senate Bill 167 requires OPR to give grants and loans to LAFCOs to prepare and adopt the municipal service reviews and spheres of influence that are due after January 1,

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2008, but before January 1, 2013. The grants and loans can pay for up to half of these costs, including the costs of complying with CEQA. If a LAFCO fails to adopt a sphere of influence funded with one of these grants, SB 167 directs OPR and the State Controller to recover those funds by any available means. The bill requires LAFCOs to repay their loans within five years after adopting their plans.

To get a grant or loan, SB 167 requires a LAFCO to meet four minimum conditions:

Present a budget and a schedule for preparing and adopting municipal service reviews and spheres of influence by January 1, 2013.

Declare that the spheres of influence will substantially comply with the requirements of state law.

Declare that the spheres will be consistent with Proposition 84's goals.

Charge fees to pay for a portion of the costs of revising its spheres.

SB 167 requires OPR to give a preference to a LAFCO that intends to:

Prepare spheres that support the implementation of a Regional Blueprint Project.

Prepare spheres in collaboration with the preparation and adoption of general plans by the county and all the cities.

Prepare spheres in collaboration with the preparation and adoption of general plans by the cities in the same council of governments or same subregional council of governments.

VI. Administration and Management . By October 1, 2008, OPR must adopt formal regulations for applications for

awarding the grants and loans authorized by SB 167. In preparing these regulations, OPR must consult with state agencies, local officials, and other groups interested in regional and local planning. OPR's regulations must contain criteria for determining the amounts of the grants and loans based on the applicant agencies' ability to raise revenue. The regulations must provide for interest on the loans at a rate that doesn't exceed the rate earned by the state's Pooled Money Investment Board. OPR's regulations

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must provide for the recovery of grant funds if cities, counties, and COGs fail to adopt the documents funded by the grants.

SB 167 requires OPR to assist cities, counties, COGs, and LAFCOs with their applications and to coordinate the state departments' technical assistance. The bill requires OPR to review and comment on the draft general plans that it funded.

The bill appropriates \$1 million to OPR in 2007-08 to run the new programs. OPR can't spend more than 5% of the bond funds on administration. OPR must cooperate in the Resources Agency's independent audit of expenditures.

SB 167 also states the Legislature's intention to appropriate another \$45 million of Proposition 84's planning money in future years:

2008-09	\$10 million
2009-10	\$15 million
2010-11	\$15 million
2011-12	\$5 million

Comments

1. Thinking about tomorrow . General plans are California's oldest form of growth management. Mandated by the Legislature in 1937, general plans are the legal foundation that supports local decisions about land use conservation and development. As cities and counties prepare to spend state bond money to build public works and approve infill development, they need to be sure that their general plans and other planning documents are complete,

adequate, and legally defensible. Obsolete and inadequate planning documents invite controversy and litigation. When the Senate Local Government Committee held an oversight hearing on general plans on February 7, the Senators learned that Proposition 84 made funds available for planning grants and incentives to encourage better regional and local land use plans. SB 167 allocates some of Proposition 84's planning money as grants and loans to cities, counties, councils of government, and local agency formation commissions. Better planning helps make better decisions for a better future.

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2. Long-term borrowing, short-term costs . When governments want to buy property or build public works, they need public capital. Governments often issue long-term bonds to borrow the money, using future revenues to repay the investors. Proposition 84's \$5.4 billion in state bonds will cost \$10.5 billion to pay off over 30 years. Fiscal prudence suggests that governments shouldn't borrow money for longer than the useful life of the assets they're acquiring. For example, a park district might use bonds to buy land and build a community pool, but it wouldn't spend bond funds on the lifeguards' salaries or the water to fill the pool. The costs of preparing local general plans are considered current expenses and never funded with long-term bonds. And yet, that's exactly what the voters called for when they passed Proposition 84. In addition to spending for water quality improvements, restoring rivers, flood control projects, and habitat protection, Proposition 84 set aside \$90 million for "planning grants and incentives." The Committee may wish to consider whether it is fiscally prudent to follow the voters' wishes and spend long-term money for short-term costs.

3. Who's in charge ? The Planning and Zoning Law declares that the Governor's Office of Planning and Research (OPR) is "the most appropriate state agency to carry out [the] statewide land use planning function," including "assisting and monitoring local and regional planning." OPR provides technical assistance to local planning departments and used to give out federal planning grants to smaller cities and counties. But state law also says that it's not the

Legislature's intent for OPR to have "any direct operating or regulatory powers over land use." The Committee may wish to consider which state agency should administer Proposition 84's planning grants and loans. If not OPR, which state department should take the lead? The Department of Housing and Community Development? The Department of Conservation? The Department of Transportation? The I-Bank (Infrastructure and Development Bank)?

4. More money means more planning . Preparing and adopting a general plan, including environmental review, costs a community about \$1 million, according to what the Senate

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Local Government Committee learned at its February 7 hearing. County general plans cost more because of their larger geography; smaller cities can spend less. Proposition 84 set aside \$90 million for local and regional planning efforts. SB 167 proposes to allocate \$45 million over four fiscal years as grants and loans that require at least 50% local matching money. The bill suggests spending some of this money on implementing general plans, regional blueprints, and spheres of influence. If legislators are concerned about obsolete general plans, the Committee may wish to increase the amount of money and focus the higher spending on general plans. Should SB 167 allocate \$60 million or \$75 million for planning grants and loans? Should SB 167 require local officials to put up 2/3 of the costs? Should SB 167 avoid funding plan implementation, regional blueprints, and spheres and to concentrate on general plans?

5. Grants and loans . Proposition 84 earmarked \$90 million for "planning grants and planning incentives, including revolving loan programs," but didn't give a preference for grants or loans. Grants are better because they can jump-start local planning with an immediate infusion of cash. Loans are better because the money that gets recycled for future loans and plans. SB 167 allows OPR to award both grants and loans, but leaves the mix up to OPR. The Committee may wish to consider whether the Legislature, not the Administration, should determine how much of this money goes for grants and how much for loans. Should the Legislature earmark most of the planning money from

Proposition 84 for loans? Should planning grants be limited to applicants who show OPR that they have no feasible means of repaying their loans?

6. Carrots and strings . Proposition 84 is very clear that the \$90 million in planning money is for "grants and planning incentives" for better regional and local land use plans. The drafters' emphasis on incentives reminds legislators that these funds should entice --- not compel --- local officials to do the right thing. SB 167 requires cities and counties to meet five minimum conditions before they can get a general plan grant or loan. Cities and counties must meet two conditions to get general plan implementation loans. COGs must meet two similar conditions. LAFCOs need to meet four conditions to get

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grants and loans to revise their spheres of influence. The Committee may wish to consider whether these conditions are sufficient to advance Proposition 84's goals. Should the Legislature ask local and regional officials to do more before they get access to this new planning money?

7. Jumping the queue . SB 167 requires OPR to give a preference to applicants that are willing to go beyond the minimum conditions for receiving grants and loans. For example, a county that intends to prepare a general plan that supports the implementation of a Regional Blueprint Project receives a preference for a planning grant or loan. A city that agrees to prepare a general plan that leads to 10 sound land use results moves up in funding queue. There are similar incentives for LAFCOs. The bill doesn't spell out how big the advantages are, leaving the percentages or the specific number of bonus points to OPR's regulations. The Committee may wish to consider if legislators should add to these lists of preferences to encourage other results.

8. Fees . Local officials can hike their land use permit processing fees to raise the additional funds needed to revise their required plans (AB 2936, Aroner, 2002). Cities and counties can use these fees to revise their general plans. Eight counties and 44 cities have enacted permit fees to fund their general plan updates. LAFCOs can also use this authority to generate funds to revise their

spheres of influence. To be eligible to receive Proposition 84 planning money, SB 167 requires cities, counties, and LAFCOs to charge fees to pay for a portion of the cost of revising the next round of their general plans or spheres of influence. If state funds pay for this revision, those who benefit from better planning should help to pay the future costs of keeping those plans current.

9. Getting better all the time . Every bill that creates a new program can be drafted better and SB 167 is no exception. The Committee should expect more amendments as the bill moves through the legislative process. For example, when legislators agree on flood protection bills, the author should fill in the missing cross-references to flood hazard zones (page 6, lines 24-30). OPR's grants for regional blueprint projects should probably go to the

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Metropolitan Planning Organizations that are responsible for transportation planning and not to the COGs (page 7, lines 24 to page 8, line 19). SB 167 needs to clarify that the 5% cap on OPR's administrative spending applies over

the course of

bill appropriates (page 13, lines 27-30). How OPR participates in the Resources Agency's independent audit of expenditures required by Proposition 84 needs more elaboration (page 13, lines 32-35).

10. Double-referred . The Senate Rules Committee ordered SB 167 referred to both the Senate Local Government Committee and then the Senate Environmental Quality Committee. The Senate Environmental Quality Committee was interested in SB 167 because the February 1 version of the bill alluded to the approval of development projects "by right," a concept with implications for environmental review. The March 12 amendments deleted the "by right" language from the bill (page 13, lines 1-3). SB 167 must still go to the Senate Environmental Quality Committee, but the deletion of that language may allow that Committee to forgo a policy hearing.

11. Related bills . SB 167 is not the only bill that proposes to allocate Proposition 84's planning funds:
SB 292 (Wiggins) declares legislative intent to

award regional planning grants. Status : Senate Rules Committee, referral pending.

SB 669 (Torlakson) declares legislative intent that regional recreation corridors should be eligible for funding. Status : Senate Rules Committee, referral pending.

SB 732 (Steinberg) requires the Resources Agency to develop guidelines and make grants for regional growth plans. Status : Senate Natural Resources & Wildlife Committee, no hearing set.

AB 997 (Arambula) allows the Department of Housing and Community Development to award grants and loans for local infill planning. Status : Assembly Rules Committee, referral pending.

AB 1253 (Caballero) declares legislative intent to make funds available for the development of regional and local land use plans. Status : Assembly Rules Committee, referral pending.

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In addition, the Schwarzenegger Administration has proposed language for a State Budget trailer bill that requires the Department of Conservation to administer a program of grants and loans to revise city and county general plans. That language is similar to the February 1 version of SB 167.

Support and Opposition (3/15/07)

Support : Unknown.

Opposition : Unknown.