

AMENDED IN SENATE MAY 1, 2012

SENATE BILL

No. 1149

Introduced by Senator DeSaulnier
(Principal coauthor: Senator Steinberg)

February 21, 2012

~~An act to repeal Section 66508 of the Government Code, relating to the Metropolitan Transportation Commission. An act to add Title 7.1.5 (commencing with Section 66538) to the Government Code, relating to the Bay Area Regional Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as amended, DeSaulnier. ~~Metropolitan Transportation Commission. Bay Area Regional Commission.~~

Existing law creates the Metropolitan Transportation Commission, the Bay Area Toll Authority, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission, with various powers and duties relative to all or a portion of the 9-county San Francisco Bay Area region with respect to transportation, air quality, and environmental planning, as specified. Another regional entity, the Association of Bay Area Governments, is created as a joint powers agency comprised of cities and counties under existing law with regional planning responsibilities. Existing law provides for a joint policy committee of certain regional agencies to collaborate on regional coordination. Existing law requires regional transportation planning agencies, as part of the regional transportation plan in urban areas, to develop a sustainable communities strategy coordinating transportation, land use, and air quality planning, with specified objectives.

This bill would create the Bay Area Regional Commission, to be governed by 15 commissioners elected beginning in 2014 from districts in the Bay Area region, with specified powers and duties, including the powers and duties previously exercised by the joint policy committee. The bill would require the regional entities that are funding the joint policy committee to continue to provide the same amount of funding as provided in the 2012–13 fiscal year, as adjusted for inflation, but to provide those funds to the commission rather than to the committee. The bill would provide for the Bay Area Toll Authority to make contributions to the commission, as specified, in furtherance of the exercise of the authority’s toll bridge powers. The bill would require federal and state funds made available to the Metropolitan Transportation Commission for purposes of transportation planning to be budgeted to the Bay Area Regional Commission. The bill would specify the powers and duties of the commission relative to the other regional entities referenced above, including the power to approve the budgets of those regional entities and to develop an integrated budget for the commission and the regional entities. The bill would provide for the commission’s executive director to develop a regional reorganization plan, with consolidation of certain administrative functions of the regional entities under the commission, with a final plan to be adopted by the commission by June 30, 2016. The bill would require organization of the regional entities as divisions of the commission, and would require the executive director to recommend candidates for vacant executive director positions at the regional entities as these positions become vacant. The bill would require the commission to adopt public and community outreach policies by October 31, 2015. The bill would require the commission to review and comment on policies and plans relative to the transportation planning sustainable communities strategy of the regional entities under Senate Bill 375 of the 2007–08 Regular Session, and beginning on January 1, 2017, the bill would provide for the commission to adopt or seek modifications to the functional regional plan adopted by each regional entity in that regard and would provide that the commission is responsible for ensuring that the regional sustainable communities strategy for the region is consistent with Senate Bill 375 of the 2007–08 Regular Session. The bill would require the commission to prepare a 20-year regional economic development strategy for the region, to be adopted by December 31, 2015, and updated every 4 years thereafter. The bill would require any changes proposed by the commission with respect

to bridge toll revenues managed by the Bay Area Toll Authority to be consistent with bond covenants, and would prohibit investment in real property of toll revenues in any reserve fund.

This bill would enact other related provisions.

Because the bill would impose various requirements on local entities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law creates the Metropolitan Transportation Commission, a local transportation planning agency.~~

~~Existing law requires that the commission adopt, by June 30, 1973, a regional transportation plan for the region, as defined, and authorizes, prior to adoption of the regional transportation plan, the operation, construction, or modification of transportation systems without the commission's approval.~~

~~This bill would delete these obsolete provisions.~~

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

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

1 SECTION 1. Title 7.1.5 (commencing with Section 66538) is
2 added to the Government Code, to read:

3

4 TITLE 7.1.5. BAY AREA REGIONAL COMMISSION

5

6 66538. The Legislature finds and declares all of the following:

7 (a) Various institutional reforms were initiated in the
8 nine-county San Francisco Bay Region during the mid-20th
9 Century to address the needs for regional intergovernmental
10 cooperation, including the formation of the Bay Area Air Quality
11 Management District in 1955; the formation of a voluntary council
12 of governments, the Association of Bay Area Governments in 1961
13 to enhance the coordination of land use policy decisions across

1 municipal and county boundaries; the formation of the Bay
2 Conservation and Development Commission in 1965 with the
3 mission of preserving and protecting San Francisco Bay and its
4 estuary system from destructive and ill-planned encroachment;
5 and the establishment of the Metropolitan Transportation
6 Commission in 1970, California's first statutorily created regional
7 transportation planning agency, to plan the region's transportation
8 infrastructure, to prioritize transportation investments, and to
9 organize and manage the allocation of financial resources
10 necessary to implement the regional transportation plan.

11 (b) Regional planning requirements have increased significantly
12 during the last 40 years. Among the most important changes in
13 state law governing the terms and conditions of regional planning
14 are those mandated by Senate Bill 375 of the 2007–08 Regular
15 Session (Chapter 728 of the Statutes of 2008). Among the
16 provisions of this statute is a requirement that a regional
17 transportation plan in urban areas include a sustainable
18 communities strategy designed to achieve greenhouse gas emission
19 reduction targets established by the State Air Resources Board.
20 The successful implementation of the sustainable communities
21 strategy requires close cooperation between regional and local
22 agencies in preparing land use, transportation, and regional air
23 quality management plans. Existing law requires collaboration
24 between the Metropolitan Transportation Commission and the
25 Association of Bay Area Governments when preparing the
26 sustainable communities strategy; however, there is no independent
27 policy body governing the collaboration. In addition to regional
28 collaboration, there is a need, when preparing the sustainable
29 communities strategy, for collaboration with the cities and counties
30 responsible for land use planning, but where that responsibility
31 resides is unspecified. This title is intended to address and remedy
32 these deficiencies.

33 (c) There is a need to integrate regional policymaking among
34 the Metropolitan Transportation Commission and its associated
35 agency, the Bay Area Toll Authority; the Bay Area Air Quality
36 Management District; the Bay Conservation and Development
37 Commission; and the Association of Bay Area Governments. These
38 regional entities have important responsibilities associated with
39 establishing and maintaining the region's sustainable communities
40 strategy. Recognizing the need to integrate regional planning, this

1 title establishes a regional policymaking process, in collaboration
2 with the governing boards of the regional entities, to ensure that
3 regional policies are developed within a common framework and
4 establishes a single point of contact for the general public and
5 public agencies having an interest in regional policies and
6 programs. Further, in an effort to achieve efficiencies, it
7 consolidates common administrative functions and establishes
8 processes for coordinating professional functions among the
9 regional entities. It also provides for direct public accountability
10 on regional issues by establishing a regionally elected governing
11 board, to be known as the Bay Area Regional Commission.

12 (d) An important objective of Senate Bill 375 of the 2007–08
13 Regular Session was to reduce the migration of workers and jobs
14 outside of the region because of the need for affordable housing.
15 In light of these circumstances, there is a need to create an
16 economic development strategy for the region that will attract and
17 retain businesses. To this end, the creation of an economic strategy
18 is necessary that builds on the education resources of the region,
19 including high schools, community colleges, and public and private
20 universities, and recognizes the need for a diversified regional
21 economy with employment opportunities for a wide spectrum of
22 skills. In developing this strategy, it is important to sustain the
23 environment and the social and cultural amenities that historically
24 have made the Bay Area an unquestionably desirable place to live
25 and work.

26 66538.1. For purposes of this title, the following definitions
27 shall apply:

28 (a) “Commission” means the Bay Area Regional Commission.

29 (b) “Commissioners” means the governing board of the Bay
30 Area Regional Commission.

31 (c) “Region” means the area encompassed by the Counties of
32 Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo,
33 Santa Clara, Solano, and Sonoma.

34 (d) “Regional entities” means the Metropolitan Transportation
35 Commission, including any joint exercise of powers agencies that
36 include the commission as a member agency; the Bay Area Toll
37 Authority; the Bay Area Air Quality Management District; the San
38 Francisco Bay Conservation and Development Commission; and
39 the Association of Bay Area Governments.

1 66538.2. (a) *The Bay Area Regional Commission is hereby*
2 *established, and the commission shall succeed to and is vested*
3 *with all the duties, powers, purposes, responsibilities, and*
4 *jurisdiction of the joint policy committee described in Sections*
5 *66536, 66536.1, and 66536.2, as well as any additional duties,*
6 *powers, purposes, responsibilities, and jurisdiction provided in*
7 *this title.*

8 (b) *The regional entities that are funding the joint policy*
9 *committee shall continue to provide that level of funding, with the*
10 *funding to be provided to the commission rather than to the*
11 *committee. The amount to be provided by each regional entity*
12 *shall be, at a minimum, the amount provided in the 2012–13 fiscal*
13 *year, adjusted annually for inflation, but may be a greater amount.*
14 *The commission may seek additional funding for purposes of*
15 *implementing this title from the regional entities.*

16 (c) *The Bay Area Toll Authority shall make contributions to the*
17 *Bay Area Regional Commission in furtherance of the exercise of*
18 *the authority's powers under Division 17 (commencing with Section*
19 *30000) of the Streets and Highways Code, including, without*
20 *limitation, contributions in the form of personnel services, office*
21 *space, and funding. The authority shall also make contributions*
22 *to the commission on a reimbursement-for-cost basis; provided,*
23 *however, that reimbursement shall not be required to the extent*
24 *that the contributions provided are determined by the commission*
25 *to be in furtherance of the exercise of the authority's powers under*
26 *that division.*

27 (d) *Federal and state funds made available to the Metropolitan*
28 *Transportation Commission for purposes of transportation*
29 *planning shall be budgeted to the Bay Area Regional Commission.*

30 (e) *The joint policy committee shall employ an interim executive*
31 *director for the commission to serve until June 30, 2015, or until*
32 *his or her successor has been appointed pursuant to Section*
33 *66538.3, whichever first occurs. The interim executive director*
34 *may act on behalf of the commission until commissioners are*
35 *elected and take office.*

36 (f) *During a transition period, until January 1, 2017, the*
37 *commission shall review and comment on draft plans and proposed*
38 *final plans for the regional transportation system, the sustainable*
39 *communities strategy as described in Section 65088 of this code*
40 *and Chapter 4.2 (commencing with Section 21155) of Division 13*

1 of the Public Resources Code, and other plans and regulations.
2 Thereafter, review of these plans and regulations shall be subject
3 to Section 66538.11.

4 (g) (1) The commission shall draw the boundaries for 15
5 districts from which candidates for the commissioners shall be
6 elected. The commission shall ensure compliance with all
7 applicable state and federal laws regarding the apportionment of
8 population among the districts.

9 (2) Initial commission elections, including primary and general
10 elections, shall take place in 2014.

11 (3) The term of office for each commissioner shall be four years,
12 except as otherwise provided by Section 66538.3.

13 (h) The commission shall undertake a study to determine the
14 feasibility of publicly financing the elections of commissioners for
15 subsequent elections.

16 66538.3. (a) The commissioners elected in 2014 shall take
17 office on the first Monday after January 1, 2015.

18 (b) No later than January 15, 2015, the commissioners shall
19 draw lots to determine the initial terms of office by district. Seven
20 commissioners shall serve an initial term of two years and eight
21 commissioners shall serve an initial term of four years.

22 (c) The commission shall appoint an executive director, a chief
23 legal counsel, and a chief financial officer by June 30, 2015. These
24 officers shall serve at the pleasure of the commission. The executive
25 director may appoint additional staff of the commission.

26 66538.4. (a) The commission shall authorize its executive
27 director to prepare a regional reorganization plan. The commission
28 shall adopt goals and policies to govern the preparation of the
29 plan. Among the goals shall be a statement as to the expected
30 reduction in the cost of overhead and in the operation and
31 management of the regional entities. All cost saving shall be
32 directed to the commission's general fund. In addition, goals shall
33 be adopted for integrating the regional planning requirements for
34 the regional plans of each regional entity into a comprehensive
35 regional plan.

36 (b) When preparing the regional reorganization plan, the
37 executive director shall include a plan for consolidating the
38 functions that are common to the regional entities, including, but
39 not limited to, personnel and human resources, budget and
40 financial services, electronic data and communications systems,

1 *legal services, contracting and procurement of goods and services,*
2 *public information and outreach services, intergovernmental*
3 *relations, transportation, land use, economic, and related*
4 *forecasting models, and other related activities. Consideration*
5 *shall be given to ensuring that there are common personnel*
6 *classifications where appropriate among the regional entities, and*
7 *the consolidation of other functions or activities, as deemed*
8 *feasible, that will further the mission of the commission and will*
9 *reduce redundancy. The plan shall be updated as determined by*
10 *the commission.*

11 *(c) On or before December 31, 2015, the executive director*
12 *shall submit to the commission a draft regional reorganization*
13 *plan. The commission shall hold at least one public hearing in*
14 *each county of the region to receive public comment. A final plan*
15 *shall thereafter be adopted for implementation on or before June*
16 *30, 2016.*

17 *66538.5. The commission shall be the fiscal agent for the*
18 *regional entities, responsible for preparing the annual budget and*
19 *managing the financial resources for each entity.*

20 *66538.6. (a) In consultation with the regional entities, the*
21 *executive director shall, on or before April 1, 2015, and on or*
22 *before April 1 of each year thereafter, prepare and submit to the*
23 *governing board of each regional entity a recommended integrated*
24 *budget for the commission and for the regional entities for the*
25 *subsequent fiscal year. The commission shall adopt the integrated*
26 *budget for the 2015–16 fiscal year by June 30, 2015, and by June*
27 *30 of each fiscal year thereafter.*

28 *(b) Prior to developing the integrated budget, the executive*
29 *director shall submit to the commission, for adoption, proposed*
30 *performance criteria to govern budgetary priorities. After the*
31 *adoption of the initial integrated budget, the executive director*
32 *shall report in subsequent annual budgets the extent to which the*
33 *performance criteria for the previous fiscal year were met. A new*
34 *set of performance criteria may be proposed and adopted for*
35 *subsequent fiscal years.*

36 *66538.7. To integrate the management of the commission with*
37 *that of the regional entities, the commission's executive director*
38 *shall do both of the following:*

39 *(a) Organize the regional entities as divisions of the*
40 *commission, with each regional entity to continue to be governed*

1 *by any applicable statute pertaining to that entity, except for*
2 *resource allocation, which shall be governed by Section 66538.5,*
3 *and except as otherwise provided in this title.*

4 *(b) Recommend a candidate for the executive director of each*
5 *regional entity as positions become vacant.*

6 *66538.8. The commission shall develop and adopt public and*
7 *community outreach policies to govern the scheduling of*
8 *commission meetings, the meetings of regional entities, the*
9 *meetings of standing committees, and meetings of ad hoc or other*
10 *temporary committees. In developing the policies, the commission*
11 *shall ensure that outreach programs will utilize all available*
12 *communication technologies, including webcasting and social*
13 *media, print, radio, and television. The commission shall also*
14 *establish policies for the holding workshops of the commission*
15 *and the regional entities in the cities and counties of the region.*
16 *The commission shall provide an opportunity for the public to*
17 *comment on the draft and the final recommended policies. The*
18 *policies shall be adopted on or before October 31, 2015.*

19 *66538.9. The commission shall maintain an Internet Web site*
20 *containing relevant information pertaining to the commission's*
21 *activities.*

22 *66538.10. The commission shall be subject to the Ralph M.*
23 *Brown Act (Chapter 9 (commencing with Section 54950) of Part*
24 *1 of Division 2 of Title 5).*

25 *66538.11. (a) Beginning on January 1, 2017, the commission*
26 *shall review the policies and plans, and associated regulations,*
27 *of each regional entity as provided in this section. The review shall*
28 *include an assessment of the consistency of the policies, plans,*
29 *and regulations among the regional entities with the requirements*
30 *of Senate Bill 375 of the 2007–08 Regular Session. The commission*
31 *shall issue a consistency report describing the findings of this*
32 *review. The commission shall hold public and community hearings*
33 *in accordance with its public outreach policies regarding the draft*
34 *consistency findings. The findings of the consistency review shall*
35 *be used in fulfilling the commission's regional planning*
36 *responsibilities.*

37 *(b) The commission shall establish a process to develop and*
38 *implement its own policies, goals, and regulations, including*
39 *performance measures, governing the preparation and adoption*
40 *of the plans prepared by the regional entities, provided they are*

1 consistent with the relevant state and federal laws governing
2 transportation planning and programming, the management of
3 regional air resources, bay shoreline planning, toll bridges, and
4 regional land use and housing policies. The commission shall
5 develop a schedule for implementing this subdivision.

6 (c) Consistent with the policies adopted pursuant to subdivision
7 (b), the governing board of each regional entity shall submit its
8 functional regional plan to the commission for adoption. The
9 commission shall adopt the functional regional plans, except as
10 provided in this subdivision. Should the commission determine not
11 to adopt a recommended function regional plan, it shall submit to
12 the applicable regional entity its findings underlying its decision,
13 including referencing policies, goals, and performance measures
14 adopted pursuant to subdivision (b), the goals of the economic
15 development strategy, and any inconsistency with Senate Bill 375
16 of the 2007–08 Regular Session. The regional entity shall redraft
17 its functional regional plan in response to the findings of the
18 commission and resubmit the plan.

19 (d) The commission shall be responsible for ensuring that the
20 sustainable communities strategy for the region integrates
21 transportation, land use, and air quality management consistent
22 with the requirements of Senate Bill 375 of the 2007–08 Regular
23 Session.

24 66538.12. (a) The commission shall prepare a 20-year regional
25 economic development strategy for the region. The goal of the
26 economic development strategy shall be to ensure that the regional
27 economy is capable of adapting to changes in technology, market
28 demand, and direction of the national and international economy.
29 The strategy shall include, but not be limited to, all of the
30 following:

31 (1) A socioeconomic profile of each county shall be developed.

32 (2) Identification of the types and location of major clusters of
33 firms that are both competitive and complementary enterprises
34 for each county.

35 (3) Identification of the sectors of the economy where there is
36 underinvestment and a workforce with high unemployment or
37 underemployment.

38 (4) Identification of sectors where investment in specific sectors
39 of the economy would enhance the probability of increasing the
40 employment opportunities for the unemployed or underemployed.

1 (5) Identification of the public and private investments that are
2 needed to facilitate the development of new or enhancement of
3 existing sectors of the regional economy.

4 (6) Identification of the social equity issues within the region
5 and the extent these issues may be addressed by the economic
6 development strategy. The strategy may identify institutional issues
7 that are barriers to addressing social equity.

8 (7) A profile of the unique regional environmental amenities as
9 well as the social and cultural amenities that are found to
10 contribute to employers being attracted to and remaining in the
11 region.

12 (b) In consultation with the regional entities, the commission
13 shall adopt goals and policies related to the inclusion of economic
14 development opportunities in the plans of the regional entities and
15 in its own plans. The goals and policies shall also promote
16 amenities that are special to the region and contribute to the
17 region's quality of life.

18 (c) The commission shall appoint an advisory committee with
19 members from the business community, including representatives
20 of small businesses, technology and manufacturing sectors,
21 community colleges, public and private universities, labor, local
22 governments, and other organizations involved with the private
23 economy. The commission shall coordinate the preparation of the
24 strategy with the advisory committee and with the regional entities.

25 (d) Consistent with its public outreach plan, the commission
26 shall hold public and community outreach as it deems appropriate
27 for both draft and final economic development strategies. The
28 commission may hold other public outreach sessions as appropriate
29 during the course of preparing the economic development strategy.

30 (e) The commission shall adopt the first economic development
31 strategy plan by December 31, 2015, and an updated strategy
32 every four years thereafter.

33 66538.13. (a) Changes proposed by the commission in policies
34 related to tolls and the management of the seven state-owned toll
35 bridges within the jurisdiction of the Bay Area Toll Authority shall
36 be consistent with and shall conform with the terms and conditions
37 of any covenants and agreements related to the use of toll revenues
38 and the financing and refinancing of any associated debt.

39 (b) Toll revenues managed by the Bay Area Toll Authority shall
40 be used only to acquire, construct, manage, maintain, lease,

1 *operate, or construct facilities required for the management of the*
 2 *state-owned toll bridges within its jurisdiction, for improvements*
 3 *to the toll bridges, to provide access to the toll bridges within its*
 4 *jurisdiction, or for associated transportation projects specifically*
 5 *authorized to be undertaken with bridge toll revenues pursuant to*
 6 *the relevant provisions of the Streets and Highways Code. Revenues*
 7 *in any reserve funds established pursuant to bond covenants or*
 8 *other related agreements shall not be invested in real property.*

9 *(c) No more than 5 percent of the toll revenues shall be used*
 10 *for administration and planning of the transportation system that*
 11 *serves the travel corridors that are served by the toll bridges.*

12 *66538.14. To the extent of any conflict between this title and*
 13 *a statute governing any of the regional entities, this title shall*
 14 *prevail.*

15 *SEC. 2. If the Commission on State Mandates determines that*
 16 *this act contains costs mandated by the state, reimbursement to*
 17 *local agencies and school districts for those costs shall be made*
 18 *pursuant to Part 7 (commencing with Section 17500) of Division*
 19 *4 of Title 2 of the Government Code.*

20 ~~SECTION 1. Section 66508 of the Government Code is~~
 21 ~~repealed.~~

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