

Section 13 (d)

Assembly Bill 2040 - Knox Bill (in part)

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AMENDED IN ASSEMBLY MAY 29, 1973

CALIFORNIA LEGISLATURE--1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 2040

Introduced by Assemblyman Knox

May 1, 1973

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT

An act to repeal Chapter 5 (commencing with Section 66100) of, to add Chapter 5 (commencing with Section 66100) to Title 7 of, and to add Section 66015 to, the Government Code; to add Section 24364 to the Health and Safety Code; and to add Article 5 (commencing with Section 16365) to Chapter 3 of Part 4 of Division 9, to the Water Code, relating to regional planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 2040, as amended, Knox (L.Cov.). Regional planning. Repeals District Planning Law and provides comprehensive revision of district planning for the San Francisco Bay area.

Creates Bay Area Regional Planning Agency.

Provides for selection of members of the governing board of such agency. Further provides for the powers and duties of the board and agency.

Requires agency to adopt a regional plan, prepared in accordance with specified provisions.

Provides for financing of such agency.

Defines terms used, and declares legislative intention, therein.

Provides that neither appropriation is made nor obligation

created for the reimbursement of any local agency for any costs incurred by it pursuant to the act.

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

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

1 SECTION 1. Chapter 5 (commencing with Section
2 66100) of Title 7 of the Government Code is repealed.

3 SEC. 2. Chapter 5 (commencing with Section 66100)
4 is added to Title 7 of the Government Code, to read:

5

6 CHAPTER 5. BAY AREA REGIONAL PLANNING
7 AGENCY

8

9 Article 1. Legislative Findings and
10 Declarations of Policy

11

12 66100. This chapter shall be known and may be cited
13 as the Bay Area Regional Planning Agency Law.

14 66101. The Legislature finds that in recent years there
15 have been numerous studies of the San Francisco Bay
16 area and the regional problems thereof, including:

17 (a) Studies by the State Water Resources Control
18 Board, pursuant to Chapter 1351 of the Statutes of 1965;

19 (b) Studies by the Bay Area Transportation Study
20 Commission, pursuant to Title 7.1 (commencing with
21 Section 66500);

22 (c) Studies by the San Francisco Bay Conservation and
23 Development Commission, pursuant to Title 7.2
24 (commencing with Section 66600);

25 (d) Studies by the Joint Committee on Bay Area
26 Regional Organization, a joint committee of the Senate
27 and Assembly, pursuant to Senate Concurrent Resolution
28 No. 41 of the 1967 Regular Session of the Legislature;

29 (e) Studies by the Metropolitan Transportation
30 Commission, pursuant to Title 7.1 (commencing with
31 Section 66500);

32 (f) Studies by the Bay Area Sewage Services Agency,
33 pursuant to Chapter 3 (commencing with Section 16220)

1 of Part 4 of Division 9 of the Water Code; pursuant to
2 Division 9 (commencing with Section 16000) of the
3 Water Code;

4 (g) Studies by the Association of Bay Area
5 Governments as part of the process of preparing an
6 advisory regional plan for the bay area.

7 66102. The Legislature finds that such studies have
8 concluded that all or substantial portions of the nine bay
9 area counties, as a region, share common problems; that
10 many such problems transcend county and city
11 boundaries and can be resolved only at a regional level;
12 that the various regional problems of the bay area are
13 interdependent and require coordinated solutions; that
14 there currently exists, and will continue to exist, a need
15 to identify such problems, to analyze them and to plan for
16 their solution; that the local agencies of the bay area,
17 despite substantial cooperation, have had only limited
18 success in dealing with such problems on a voluntary
19 basis; and that a regional planning agency, established by
20 statute, is necessary to provide an adequate
21 governmental agency to deal with such problems and to
22 insure effective planning for the growth and
23 development of the bay area and the conservation of its
24 resources.

25 66103. The Legislature finds that (1) the Association
26 of Bay Area Governments was organized in 1960 as a
27 voluntary association of cities and counties within the San
28 Francisco Bay area; (2) that since its inception, the
29 association has worked to develop a regional plan to
30 guide growth and development within the region; (3)
31 that the association has now formally adopted a general
32 plan for the region; (4) that the effectiveness of such a
33 plan is restricted by the fact that the association, as
34 presently constituted, lacks authority to prevent actions
35 which would be adverse to, or in conflict with, its plans
36 and; (5) that the association, representing the ~~consensus~~
37 *a consensus* of local governments within the San Francisco } ?
38 Bay area, has requested such authority from the
39 Legislature on several occasions.

40 The Legislature hereby declares that it is the intent of

1 the Legislature to respond to such request by enacting
2 this chapter so as to reconstitute the regional planning
3 responsibilities of the Association of Bay Area
4 Governments in the Bay Area Regional Planning Agency
5 with the authority to prevent actions which would be
6 adverse to, or in conflict with, its regional plan.

7 66104. The Legislature finds and declares that the Bay
8 Area Regional Planning Agency must have the ability to
9 enact ordinances and to secure cease and desist orders to
10 prevent actions which will be adverse to, or in conflict
11 with, the goals and objectives of the regional plan in order
12 that the regional plan will, in fact, be capable of
13 implementation. The Legislature further finds and
14 declares that these powers are necessary during the
15 period when the agency is preparing the regional plan,
16 and the individual elements thereof, as well as after such
17 plans have been completed and adopted.

18 66105. The Legislature finds and declares that this
19 chapter is not intended, and shall not be construed, as
20 authorizing the regional planning agency to exercise its
21 power in a manner which will take or damage private
22 property for public use, without the payment of just
23 compensation therefor. This section is not intended to
24 increase or decrease the rights of any owner of property
25 under the Constitution of the State of California or the
26 United States.

27 66106. The Legislature finds and declares that a
28 general statute cannot be made applicable to the bay area
29 or the solution of its regional problems which are
30 different from those found in other areas of the state
31 because of the unusual nature and extent of the San
32 Francisco Bay, the unique geographic, topographic,
33 climatic and soil conditions of the bay area and the large
34 number and variety of public agencies in the bay area
35 with widely varying powers and levels of planning and
36 activities.

37 66107. The Legislature finds and declares that the Bay
38 Area Regional Planning Agency should be the sole and
39 exclusive public agency within the region with the
40 responsibility for general purpose regional planning.

1 Article 2. Definitions

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3 66110. The definitions contained in this section
4 govern the construction of this chapter unless the context
5 otherwise requires. The definition of a word or phrase
6 applies to any variants thereof.

7 66111. "Agency" means the Bay Area Regional
8 Planning Agency.

9 66112. "Board" means the governing board of the Bay
10 Area Regional Planning Agency.

11 66113. "City" means any chartered or general law city
12 incorporated pursuant to law.

13 66114. "County" means any city and county and any
14 chartered or general law county.

15 66115. "Local agency" means any county, city, or
16 special district.

17 66116. "Official census" means any decennial or
18 special federal census, or any official population estimate
19 of the State Department of Finance.

20 66117. "Open space" means those lands and waters
21 presently in a state of openness or natural condition,
22 including land devoted to agriculture, viticulture and to
23 the general production of food and fiber; land or open
24 areas devoted to the collection, distribution, or flow of
25 water; land or open areas devoted to wildlife
26 conservation, outdoor recreation, park lands, natural
27 areas or scenic areas; and land and open areas found by
28 the agency to be necessary or convenient to conserve or
29 enhance natural or scenic resources, or to contribute to
30 the planned development of the region.

31 66118. "Region" means the territory within the
32 Counties of San Francisco, San Mateo, Santa Clara,
33 Alameda, Contra Costa, Solano, Sonoma, Napa, and
34 Marin.

35 66119. "Regional" means a matter substantially
36 affecting the incorporated or unincorporated territory,
37 or the inhabitants or property therein, of two or more
38 counties or cities or any combination of cities and
39 counties.

40 66120. "Regional park" means any park established

1 for, and intended to be used by, the inhabitants of two or
2 more cities or counties, or any combination of cities or
3 counties.

4 As used in this section "park" means any land, water,
5 or facilities used or intended to be used for regional
6 recreation purposes of any kind, including playgrounds,
7 playing fields, golf courses, gymnasiums, camps, beaches,
8 streams, sloughs, marshes, bodies of water, wildlife
9 preserves or refuges, swimming pools, marinas, small
10 craft harbors, parkways, scenic drives, corridors or vistas,
11 boulevards, auditoriums, and any other facilities
12 contributing to the enjoyment, observation, or study of
13 nature or the physical, mental, cultural, or moral
14 development or entertainment of persons.

15 66121. "Special district" means any public agency,
16 other than a county or a city, formed pursuant to general
17 law or special act for the local or regional performance of
18 governmental or proprietary functions within limited
19 boundaries.

20 "Special district" includes a county service area, but
21 does not include the state or any agency, board, or
22 commission which is part of state government.

23

24 Article 3. Establishment of the Bay Area Regional
25 Planning Agency

26

27 66130. There is created the Bay Area Regional
28 Planning Agency as a separate legal entity.

29 66131. The agency shall be known and designated as
30 the "Bay Area Regional Planning Agency."

31 66132. From the date of the agency's organizational
32 meeting, held pursuant to Section 66161, the agency shall
33 be the sole and exclusive general purpose planning
34 agency for the region and no other public agency,
35 whether organized pursuant to Chapter 5 (commencing
36 with Section 6300) of Division 7, Title 1, or organized
37 pursuant to the provisions of any other statute, shall
38 engage in, or expend money for, general purpose
39 regional planning. Any such other public agency which,
40 on the date of the agency's organizational meeting, is

1 engaged in general purpose planning for the region, shall
2 transfer to the agency within 60 days of such meeting all
3 relevant regional planning data, information, and
4 materials.

5

6

Article 4. Selection of Board Members

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8 66140. The Regional Planning Agency Board shall be
9 the governing body of the agency, and its members shall
10 be selected as provided in this article.

11 66141. The number of members of the board to which
12 each county is entitled shall be determined as follows:

13 (a) Each county within the region having a population
14 of 300,000 or less shall have two members on the agency
15 board. One member shall be appointed by the board of
16 supervisors, and one member shall be appointed by the
17 city selection committee.

18 (b) Each county within the region having a population
19 of more than 300,000 and not more than 600,000 shall have
20 four members on the agency board. Two members shall
21 be appointed by the board of supervisors, and two
22 members shall be appointed by the city selection
23 committee.

24 (c) Each county within the region having a population
25 of more than 600,000 shall have six members on the
26 agency board. Three members shall be appointed by the
27 board of supervisors, and three members shall be
28 appointed by the city selection committee.

29 The population figures as used in this section shall be
30 determined by the last official census.

31 66142. The board of supervisors of each county shall
32 appoint from among its members the appropriate
33 number of county members to the agency board.

34 66143. The city selection committee established in
35 each county pursuant to Article 11 (commencing with
36 Section 50270) of Chapter 1, Part 1, Division 1, Title 5,
37 shall appoint the appropriate number of city members to
38 the agency board from the membership of the governing
39 bodies of cities within each county.

40 66144. Notwithstanding the provisions of Section

1 65143, in the City and County of San Francisco, the mayor
2 shall appoint the appropriate number of city members to
3 the agency board from among the various elected city
4 officials of such city and county.

5 66145. Agency board members shall be appointed as
6 provided in this article within 60 days after the effective
7 date of this section. Each appointing authority designated
8 in Sections 66142, 66143, and 66144, shall immediately
9 upon making the appointments required by this article,
10 transmit notice of such appointments to the County
11 Clerk of Alameda County. Such notice shall include the
12 name of the person, or persons, appointed, his title,
13 mailing address, and the date upon which the
14 appointment was made.

15 66146. The term of office of all board members shall
16 be four years, except that the term of the first agency
17 board shall be either two, three, or four years. At the
18 organizational meeting of the first board, the board
19 members shall classify themselves, by lot, into three
20 groups as equal in number as possible, one group to hold
21 office for two years, one group for three years, and one
22 group for four years.

23 66147. The term of office of the first agency board
24 shall commence at 12 o'clock noon on the 61st day after
25 the effective date of this section.

26 66148. Successors to board members whose term of
27 office has expired shall be appointed in the same manner
28 as the board member whose term has expired.

29 66149. Any vacancy on the agency board shall be
30 filled for the unexpired term by appointment made in the
31 same manner as the original appointment.

32 66150. Following each federal decennial census and
33 using that census as a guide, the agency board may adopt
34 an ordinance reallocating the number of appointive
35 members which have been allotted to each county,
36 provided that each county shall be allotted a minimum of
37 one city member and one county member. The agency
38 board may also adopt such an ordinance at any time
39 between the decennial federal census in which event the
40 board will use as a guide any official census available.

1 66151. A city or a county officer may serve as a
2 member of the agency board while holding office as a city
3 or county officer. If such a member ceases to be an
4 elected official of a city or a county during his term of
5 office on the agency board, his membership on the
6 agency board shall be terminated.

7

8 Article 5. Organization of the Bay Area Regional
9 Planning Agency

10

11 66160. The legislative and governing powers of the
12 agency shall be vested in the agency board which shall
13 constitute the legislative and governing body of the
14 agency, and which shall exercise all powers of the agency,
15 except as otherwise provided herein.

16 66161. The County Clerk of Alameda County shall act
17 as temporary chairman of the agency board; and as such
18 temporary chairman, shall ascertain the names of the first
19 members designated to the agency board pursuant to
20 Article 4 (commencing with Section 66140), and shall
21 inform each member of the time and place of the
22 organizational meeting of the agency board. The
23 organizational meeting of the agency board shall be held
24 not less than 60 days, nor more than 90 days, after the
25 effective date of this section, at a time and place to be
26 designated by the County Clerk of Alameda County. The
27 County Clerk of Alameda County shall preside at the
28 organizational meeting of the first agency board and until
29 the members of first agency board have selected a board
30 chairman, but he shall have no vote in the selection of the
31 chairman.

32 66162. The agency board shall elect from among its
33 members a board chairman and vice chairman, and may
34 elect any other officers it deems necessary from among
35 its members.

36 66163. A majority of the members of the agency board
37 shall constitute a quorum for the transaction of business;
38 provided, however, that a majority vote of the entire
39 board is necessary to carry any matter before the agency
40 board.

1 66164. The agency board may appoint an executive
2 committee consisting of the chairman of the board and
3 not less than eight, nor more than 12, other members of
4 the agency board. The agency board may authorize the
5 executive committee to exercise any powers possessed by
6 the agency board, and shall, by resolution, specify those
7 powers delegated to the executive committee ;
8 *provided, however, that the authority to adopt the*
9 *ordinances specified in Sections 66200 and 66210 shall not*
10 *be exercised by the executive committee, but shall be*
11 *exercised exclusively by the agency board.* The executive
12 committee shall exercise any powers delegated to it in
13 substantially the same manner as may be provided by law
14 for their exercise by the agency board. Any action taken
15 by the executive committee may be amended or
16 repealed by the agency board.

17 66165. The agency board may establish any
18 committees of the board it deems advisable and shall
19 specify the purposes and duties of each such committee.

20 66166. The agency board shall, by resolution, establish
21 the location of its principal meeting place and fix the date
22 and time of its regular meetings; provided, however, that
23 the agency board shall meet at least once each month.

24 66167. Each member of the agency board shall
25 receive compensation of ~~thirty-five dollars (\$25)~~ *fifty*
26 *dollars (\$50)* for each day or portion thereof devoted to
27 attendance at board or committee meetings, or other
28 official business of the agency ; *provided that such*
29 *compensation shall not exceed three hundred dollars*
30 *(\$300) during any calendar month.*

31 In addition to the compensation provided by this
32 section, board members shall receive the actual and
33 necessary expenses incurred in the performance of
34 official agency business, ~~and the attendance of regular~~
35 ~~board or committee meetings.~~ The board shall adopt
36 rules specifying what constitutes official agency business
37 for which actual and necessary expenses will be paid.

38 *After the agency board has become the ex officio*
39 *governing body of the Metropolitan Transportation*
40 *Commission and of the Bay Area Sewage Services*

1 *Agency, pursuant to the provisions of Article 12*
2 *(commencing with Section 66265), the members of the*
3 *agency board shall receive compensation and payment of*
4 *expenses pursuant to this section alone and shall not be*
5 *eligible to receive compensation or payment of expenses*
6 *pursuant to the provisions of Title 7.1 (commencing with*
7 *Section 66500), or of Division 9 (commencing with*
8 *Section 16000) of the Water Code.*

9 *66168. The agency shall be deemed a local agency*
10 *under the Ralph M. Brown Act (commencing with*
11 *Section 54950), and shall be subject to the provisions of*
12 *that act.*

13

14 Article 6. General Powers and Duties of the Agency

15

16 66170. Acts of the agency shall be expressed by its
17 board by the adoption of ordinances, resolutions, or
18 orders.

19 66171. The agency has and may exercise any express
20 powers granted to it and any powers necessary to,
21 implied in or incidental to such express powers.

22 66172. The agency may sue and be sued, except as
23 otherwise provided by law, in all actions and proceedings
24 and in all courts and tribunals of competent jurisdiction.

25 66173. The agency shall have power to contract or
26 otherwise participate in, and to accept grants, funds, or
27 services from the federal government, its agencies or
28 instrumentalities in connection with any federal program
29 judged by the board to be relevant to its functions; and
30 the board shall similarly have the power to contract or
31 otherwise participate in, and to accept grants, funds, or
32 services from the state, or any agency or instrumentality
33 thereof, or any city, county, civic organization or private
34 person in connection with any program judged by the
35 board to be relevant to its function.

36 66174. The agency shall have power to establish and
37 maintain such offices as are judged best to facilitate the
38 accomplishment of the purposes of the agency, and to
39 take by grant, purchase, devise, or gift, or to lease or rent,
40 and to hold, use, and enjoy any property necessary or

1 convenient to the establishment, maintenance, or
2 operation of such offices, and to purchase, exchange, or
3 dispose of such property as is necessary or convenient for
4 this purpose.

5 66175. The agency shall have power to contract with
6 any person, firm, association, or corporation, or to
7 contract for any other types of services judged by the
8 board to be necessary or convenient for carrying out the
9 purposes of the agency.

10 66176. The agency may make, publish, and
11 disseminate, by publication, posting, mailing or any other
12 form of communication, any data and information which
13 is relevant to regional affairs or to the operations,
14 functions, and responsibilities of local and regional
15 agencies and may sponsor conferences, workshops,
16 programs, and lectures pertaining thereto.

17 66177. The agency may make any of its property or
18 facilities available for the use of other public agencies,
19 and may authorize its officers and personnel to furnish
20 advice, assistance, or services to other public agencies.

21 66178. The agency board, acting with the advice of
22 the agency director, shall determine the number,
23 compensation, and general duties of personnel employed
24 by the agency.

25 66179. Because of the comprehensive regional
26 responsibilities required of the agency by this chapter,
27 the agency, notwithstanding any other provision of law,
28 shall be the regional transportation planning agency for
29 the purpose of Section 29532.

30 *66180. The agency may provide for standing*
31 *committees to assist the agency board, or any committee*
32 *thereof, in the preparation and review of any element of*
33 *the regional plan, or in any other matter related to official*
34 *agency business. The agency board shall specify the*
35 *purposes and duties of each such committee.*

36 *Any resident of the region, including members of the*
37 *agency board, shall be eligible for membership on such*
38 *committees. The members of such committees shall be*
39 *appointed and shall serve as provided by the agency*
40 *board. Such members may, if provided by the agency*

1 *board, be reimbursed for actual and necessary expenses*
2 *incurred in connection with the duties of such*
3 *committees; provided that any member of the agency*
4 *board claiming reimbursement for expenses pursuant to*
5 *the provisions of Section 66167 shall not be reimbursed*
6 *for expenses pursuant to this section.*

7 66181. *The agency board shall provide for regular*
8 *audits of the fiscal affairs of the agency. Such audits shall*
9 *occur at least semiannually and shall show the exact*
10 *financial condition of the agency as of the end of the*
11 *period covered thereby.*

12 66182. *The agency, by agreement with any other*
13 *public agency, may provide for the joint exercise of any*
14 *powers common to the contracting parties, pursuant to*
15 *Article 1 (commencing with Section 6500) of Chapter 5*
16 *of Division 7 of Title 1.*

17
18 Article 7. The Regional Plan

19
20 66190. *The agency shall prepare, adopt, maintain,*
21 *regularly review, and revise a regional plan as provided*
22 *in this article.*

23 66191. *The regional plan shall contain at least the*
24 *following correlated elements prepared in accordance*
25 *with Sections 66194 and 66195:*

26 (a) *An environmental quality plan for the integrated*
27 *development, management, and control of the regional*
28 *air and water resources of the region. Such plan shall*
29 *provide for the integrated development, management,*
30 *and control of contaminants or waste materials*
31 *discharged into, or deposited in, under or upon any land,*
32 *air, or water within the region. This plan shall comply*
33 *with the policies and requirements established by:*

34 (1) *The California Regional Water Quality Control*
35 *Boards or the State Water Resources Control Board*
36 *pursuant to provisions of the Water Code for the*
37 *protection of the quality of water of the state;*

38 (2) *The State Air Resources Board pursuant to*
39 *provisions of the Health and Safety Code for the*
40 *protection of ambient air quality within the state; and*

1 (3) The State Solid Waste Management Board
2 pursuant to provisions of this code to protect the public
3 health and safety.

4 Notwithstanding the provisions of Section 66780, the
5 solid waste plan prepared pursuant to this subdivision
6 shall be the solid waste plan for the region as described
7 in Section 66780.

8 (b) A transportation plan for the development and
9 management of an integrated regional system of
10 transportation of persons and goods within the region,
11 including: the regional highway system; bridges, tunnels,
12 tubes or other crossings for highways or rapid transit;
13 transit and mass transit systems; airports, seaports; any
14 facilities appurtenant to any of the foregoing.

15 The regional transportation plan prepared pursuant to
16 Section 66503 shall constitute the transportation plan
17 required by this subdivision. Such plan, however, may be
18 altered or amended at any time by the agency board
19 pursuant to the provisions of this article.

20 The transportation plan prepared pursuant to this
21 subdivision shall be the regional transportation plan
22 required by Chapter 2.5 (commencing with Section
23 65080) of Title 7 and shall comply with the provisions
24 thereof.

25 (c) An open-space plan for identifying, preserving,
26 and managing the various types of regional open space
27 within the region, including the following:

28 (1) Regional open space that separates and guides
29 continuing development.

30 (2) Regional open space which insures that flood
31 plains, steep slopes, earthquake fault zones, and other
32 hazardous areas will be left in an open condition and will
33 not be used for development purposes in the absence of
34 adequate precautionary measures being taken to reduce
35 the level of risk to that comparable with adjoining and
36 surrounding areas.

37 (3) Regional open space which insures the purity of
38 water and watersheds.

39 (4) Regional open space which is highly suitable for
40 the production of food and fiber, including food and fiber

1 which cannot be easily produced elsewhere.

2 (5) Regional open space which provides scenic value.

3 (6) Regional open space which provides significant
4 habitat for animal life or vegetation which is indigenous
5 to the region.

6 (d) A parks plan for establishing, improving,
7 managing, and expanding regional parks.

8 (e) A land use plan for the regional distribution,
9 location, and extent of uses of land for all categories of
10 public and private land.

11 (f) A resource management plan for the conservation,
12 development and management of the regional resources
13 of the region, including forests, rivers, soils, fish and
14 wildlife, and other natural resources.

15 66192. The initial regional plan, containing all the
16 elements specified in Section 66191, shall be adopted by
17 the agency board no later than three years from the date
18 of the organizational meeting of the first agency board.

19 66193. The regional plan, and each individual
20 element thereof, shall consider and seek to harmonize
21 the needs and goals of the entire region, the plans of local
22 agencies within the region and the plans or planning
23 activities of federal, state and other governmental or
24 nongovernmental agencies and organizations which
25 affect or are concerned with planning and development
26 within the region. } H.N.

27 66194. The regional plan, and each individual
28 element thereof shall include statements, based on
29 studies as comprehensive as feasible, concerning the
30 following factors relevant to the region:

31 (a) Population and population distribution by age,
32 educational level, income, employment, race, and other
33 relevant characteristics;

34 (b) Amounts, types, levels, and general locations of
35 commercial and industrial activities;

36 (c) Amounts, types, quality, and general locations of
37 housing units;

38 (d) General location and extent of major
39 transportation, utility and regional facilities and the
40 plans, if any, of other public agencies to provide such

1 facilities;

2 (e) Amount and general locations of land uses by
3 categories such as agricultural, commercial, industrial,
4 residential, recreational and open space, and the patterns
5 of relationships between the different categories;

6 (f) Areas, sites, or structures of aesthetic, historic,
7 educational, or recreational quality or usefulness;

8 (g) Natural resources, including air, water, forests,
9 soils, rivers and other waters, waterfronts, shorelines,
10 fisheries, wildlife and minerals.

11 Such statements shall identify the present conditions
12 and the major problems relating to development,
13 physical deterioration, and the location of activities that
14 use land and the environmental, social, and economic
15 effects thereof. The statements shall show the projected
16 nature and rate of change in present conditions for the
17 reasonably foreseeable future in the absence of new
18 governmental action and the probable environmental,
19 social, and economic consequences which will result from
20 such changes.

21 66195. The regional plan, and each individual
22 element thereof, shall state regional goals and objectives
23 with respect thereto, and shall identify and list specific
24 policies and programs necessary to achieve such goals
25 and to obviate or resolve the major problems identified
26 pursuant to Section 66194. Such policies and programs
27 shall include:

28 (1) An immediate and long-range program of specific
29 public actions, including governmental development,
30 state legislation, enactment of ordinances, preparation of
31 detailed specific plans for areas within the region, and
32 expenditure of public funds, to be undertaken in stated
33 sequence by specified agencies in order to achieve the
34 objectives, policies, and standards contained in the plan,
35 and the individual elements thereof.

36 (2) Estimates of the amounts, types, characteristics
37 and general locations of land to be acquired by public
38 agencies, and the transportation, utility and regional
39 facilities to be provided by public agencies in order to
40 carry out the immediate and long-range programs of

1 public actions, and an estimate of the number of persons
2 and activities to be displaced by such acquisitions, the
3 consequences of displacement and the provisions, if any,
4 to be undertaken by the government to relocate them.

5 (3) A statement of types of development controls and
6 general provisions thereof which should be adopted
7 within the period of the immediate and long-range
8 programs of public actions to achieve objectives, policies
9 and standards of the resources plan and the individual
10 elements thereof and an estimate of the additional
11 trained personnel, if any, required to administer such
12 controls.

13 (4) Estimates of the costs of acquisitions,
14 development, and enforcement of development controls
15 necessary to implement the immediate and long-range
16 programs of public actions and a statement of sources of
17 the public funds of all types which are, will be, or could
18 be made, available for such purposes.

19 (5) An estimate of the environmental, social, and
20 economic consequences of the immediate and long-range
21 programs of public actions including the impact on
22 population distribution by characteristics and income,
23 employment, and economic condition within the region
24 and an evaluation, to the extent feasible, of the
25 consequences of alternative programs of public action.

26 (6) A statement of the assumptions regarding private
27 development, and future development for public use by
28 public agencies upon which the immediate and
29 long-range programs are based.

30 66196. The agency board at any time may amend or
31 repeal all or any part of the regional plan, or any element
32 thereof, and may adopt all or any part of a new regional
33 plan or element thereof. The agency director and the
34 agency board shall continuously review the regional plan
35 and the various elements thereof and the board shall
36 make such changes therein as it deems advisable.

37 66197. The agency board may, by resolution, direct
38 the agency director to prepare, or cause to be prepared,
39 and submit for board approval, all or any part of the
40 regional plan or any amendment thereof. The resolution

1 shall describe in brief and general terms the nature,
2 location and extent of the proposed plan or amendment
3 to be prepared by the agency director. The agency
4 director, on his own initiative, may prepare and submit
5 to the agency board proposed amendments to the
6 regional plan.

7 66198. Prior to adopting the plan, any element
8 thereof, or any amendment thereto, the board shall, by
9 resolution, provide for a hearing by the board on the
10 question of whether the proposed plan, element thereof,
11 or amendment thereto, should be approved and adopted
12 by the board.

13 66199. Any resolution adopted pursuant to Section
14 66198 providing for a hearing shall:

15 (a) Concisely summarize the substance of the
16 proposed plan, element of a plan or amendment and
17 refer to the same, on file with the agency director, for a
18 full and complete description thereof;

19 (b) Indicate where the proposed plan, element of a
20 plan or amendment may be examined and where copies
21 thereof may be obtained;

22 (c) Fix a time, not less than 15 days or more than 75
23 days after adoption of such resolution, and the place of
24 hearing by the agency board on the question of whether
25 the proposed plan, element of a plan or amendment
26 should be approved and adopted by the board.

27 The board shall cause notice of a hearing held pursuant
28 to Section 66198 to be published pursuant to Section 6061
29 in a newspaper, or newspapers, of general circulation
30 published in the region. The board shall also cause to be
31 mailed notice of the hearing to each county and city
32 within the region, and to any other public agency or
33 private person who shall have filed a written request for
34 such mailed notice with the board.

35 66200. At the conclusion of a hearing held pursuant to
36 Section 66198, the board may wholly or partially, with or
37 without modification, approve or disapprove the
38 proposed regional plan, element thereof, or amendment
39 thereto. The board shall approve and adopt the plan, any
40 element thereof, or amendment thereto by ordinance.

)
)
Public hearing?

1 Article 8. Effectuation of the Regional Plan

2
3 66210. This article shall apply only to the elements of
4 the regional plan designated in subdivisions (a) to (f),
5 inclusive, of Section 66191. For the purpose of
6 implementing the policy stated in Section 66104, the
7 board, by one or more ordinances, may prescribe rules
8 and regulations, which must be complied with by
9 affected private persons, and in any plans, ordinances,
10 and regulations of a local agency relating to planning or
11 to the regulation and control of development.

12 *The board shall, by resolution, provide for a hearing by*
13 *the board on the adoption or amendment of any*
14 *ordinance authorized by this section. The resolution shall*
15 *summarize the substance of the proposed ordinance or*
16 *amendment, shall indicate where copies thereof may be*
17 *obtained, and shall fix a date and time, not less than 15*
18 *days nor more than 60 days from the adoption of the*
19 *resolution, when the hearing shall be held. Notice of such*
20 *hearing shall be given as provided in Section 66199.*

21 66211. The rules and regulations adopted pursuant to
22 Section 66210 shall be limited to those specific matters
23 which have a direct and substantial effect upon the
24 accomplishment of the regional objectives and policies
25 set forth in the regional plan or individual elements
26 thereof, and shall be no broader nor more stringent than
27 is reasonably necessary for the accomplishment of such
28 regional objectives and policies. The board may not
29 exercise any powers vested by law in local agencies
30 pertaining to plans for development or pertaining to
31 ordinances regulating and controlling development or
32 preexisting uses and structures, but any local agency
33 exercising such powers shall comply with the rules and
34 regulations prescribed by the board.

35 66212. The plans of all local agencies shall be
36 consistent with any regional rules or regulations
37 prescribed pursuant to Sections 66210 and 66211. The
38 ordinances or regulations of all local agencies regulating
39 and controlling development shall be consistent with the
40 regional rules and regulations of the board prescribed

1 pursuant to Sections 66210 and 66211.

2 66213. If the agency director concludes that there is
3 any inconsistency between the regional plan or
4 individual elements thereof and the existing or proposed
5 plans of a local agency or between the rules and
6 regulations prescribed by the agency board and the
7 provisions of any existing or proposed ordinance or
8 regulation of a local agency, the director shall mail a
9 written notice of nonconformity to the local agency. The
10 director shall notify any affected private persons of any
11 inconsistency in the same manner. The notice of
12 nonconformity shall identify the inconsistency and
13 contain a statement of facts and reasons supporting the
14 director's conclusion of inconsistency.

15 66214. Within 90 days after the mailing of the notice
16 of nonconformity pursuant to Section 66213 or within
17 such additional time as the agency director may
18 authorize, the local agency or affected private person
19 shall either (1) take such steps as may be necessary to
20 eliminate the inconsistency, or (2) file an application
21 with the director requesting a hearing and determination
22 by the board on the question of inconsistency. Any such
23 application shall contain a statement of facts and reasons
24 supporting the conclusion that there is no inconsistency.

25 66215. Upon the filing with the agency director of an
26 application requesting a hearing and determination by
27 the agency board on the question of inconsistency, the
28 director shall fix a time and place of hearing on the
29 question and mail written notice thereof to the local
30 agency or affected private person. The date of the
31 hearing shall be at least 15 days after the date of mailing
32 of the notice.

33 66216. At the hearing the board shall consider the
34 agency director's written notice of nonconformity and
35 the application for a hearing. The board shall receive
36 evidence from the director, authorized representatives
37 of the local agency, and any other interested public
38 agency or private person. At the conclusion of the
39 hearing, if the board is of the opinion that an
40 inconsistency exists, the board may adopt an order

1 directing the local agency to cease and desist from
2 enforcing any inconsistent provisions of any existing plan,
3 ordinance, or regulation of such agency or from adopting
4 any proposed plan, ordinance, regulation, or any
5 amendment thereof, containing inconsistent provisions.
6 In the case of a private person, the order shall direct the
7 private person to cease and desist from the specific action
8 found to be inconsistent with the regional plan. Any
9 violation of a cease and desist order may be enjoined by
10 the superior court in any county on application of the
11 agency. Injunctive proceedings shall be governed by
12 Chapter 3 (commencing with Section 525) of Title 7 of
13 Part 2 of the Code of Civil Procedure, except that no
14 undertaking shall be required in any action commenced
15 by the agency.

16 66217. The provisions of this chapter shall not apply to
17 any city, county, or city and county within the region
18 with respect to state highway location therein.

19 ~~66218. Except as otherwise provided in this article,~~
20 ~~the legislative body of any local agency may adopt plans~~
21 ~~and ordinances and regulations relating to planning or to~~
22 ~~the regulation and control of development. The adoption~~

23 66218. *The adoption* by the board of any plan or
24 ordinance authorized by this article or Article 7
25 (commencing with Section 66190) of this chapter shall
26 not preclude the adoption by a local agency of any plan
27 or any ordinances or regulations affecting any of the
28 mandatory elements of the regional plan specified in
29 Section 66191. Each such local plan, ordinance, or
30 regulation, however, shall be subject to the provisions of
31 this article.

32 66219. The board may, *by resolution*, authorize the
33 agency director; ~~by rule~~; to specify data, including
34 projections of population growth and economic activity,
35 which must be employed by local agencies in the
36 preparation of local plans and ordinances or regulations
37 relating to planning or relating to the regulation and
38 control of development or of preexisting uses or
39 structures. If the legislative body of such agency
40 determines that such data is inaccurate, it may employ

1 data which in its opinion is accurate, in which case, it shall
2 furnish the director with a statement of the reasons why
3 it has rejected the director's data.

4 66220. Upon written request by the agency director,
5 the officers of each local agency shall furnish lists of or
6 make available to the director full and complete
7 information concerning the nature and extent of all
8 existing local plans and ordinances and regulations
9 relating to planning or to the regulation and control of
10 development which may have a direct or substantial
11 effect upon any of the matters covered by the mandatory
12 elements of the regional plan specified in Section 66191.

13 66221. The board may adopt an ordinance
14 designating, or authorizing the agency director to
15 designate, those existing plans, ordinances, and
16 regulations of each local agency, certified copies of which
17 are required to be filed with the director pursuant to
18 Section 66220. The agency director shall mail written
19 notice to each such local agency designating the
20 instruments, certified copies of which are required to be
21 filed with the director. Such certified copies shall be filed
22 with the director no later than 30 days after the mailing
23 of such notice or on or before any later date the director
24 may authorize.

25 66222. Any local agency proposing to adopt or amend
26 any local plan or any ordinance or regulation pertaining
27 to planning or pertaining to the regulation and control of
28 development in such a manner as to have a direct or
29 substantial effect on any of the matters covered by the
30 mandatory elements of the regional plan specified in
31 Section 66191, shall mail written notice thereof to the
32 agency director at least 30 days prior to the date of
33 adoption or amendment thereof. Upon request by the
34 local agency, the director may waive the requirement of
35 such notice as to the proposed adoption of an urgency
36 ordinance.

37 66223. To facilitate further the effective and
38 harmonious planning of the agency, the board may
39 request from the federal or state government, or agencies
40 and instrumentalities thereof, and from private

1 organizations, agencies, or individuals, copies of plans,
2 maps, reports and other documents which are related to
3 regional planning.

4 66224. The board shall submit to the legislative bodies
5 and to the planning agencies of all of the counties, cities,
6 and to other governmental agencies and
7 instrumentalities, official representatives, other agencies,
8 organizations and individuals, public or private, in the
9 district which are designated by the board, an annual
10 report on or before the first day of March. The annual
11 report shall contain a report on the status of the regional
12 plan, and descriptions of those sections of the regional
13 plan which have been amended, revised, added, or
14 deleted during the preceding year, and a brief report of
15 other major activities.

16
17 Article 9. Review of Applications for Financial
18 Assistance
19

20 66235. As used in this article, "financial assistance"
21 means financial assistance extended to any local agency
22 by the state or federal governments or any other public
23 agency, including grants and contractual arrangements,
24 such as loans, loan guarantees, insurance and any other
25 form of financial assistance, but shall not include financial
26 assistance extended by one local agency to another local
27 agency.

28 66236. If any application by a local agency for
29 financial assistance relates to or substantially affects any
30 matter within the scope of any of the mandatory
31 elements of the regional plan, as set forth in Section
32 66191, such application must be submitted to the board
33 for comment and recommendation prior to being
34 submitted to the agency from whom financial assistance
35 is proposed to be requested. In making comments and
36 recommendations upon any such application, the board
37 shall take the following factors into account:

38 (a) Whether the project or purpose for which financial
39 assistance is requested is in conformity with the regional
40 plan;

1 (b) The relative priority of such project or purpose
2 with respect to other projects or purposes for which
3 financial assistance is being or may be sought by other
4 public agencies;

5 (c) Any other factors deemed to be relevant.

6 66237. A copy of every application by a local agency
7 for financial assistance shall be submitted to the board not
8 later than the date of its submission to the agency from
9 whom financial assistance is requested.

10 The board may submit comments and
11 recommendations concerning the application to the
12 applicant and to the agency from whom financial
13 assistance is requested. Such comments and
14 recommendations may include any of the factors
15 specified in Section 66236.

16 The agency is designated as the agency authorized to
17 comment upon and make recommendations with respect
18 to any applications for financial assistance from the state
19 or federal governments which are required to be
20 reviewed by an areawide agency designated to perform
21 metropolitan or regional planning.

22 66238. The board shall adopt a resolution prescribing
23 a procedure and providing standards and criteria to be
24 followed by the board in reviewing applications for
25 financial assistance and the making of comments and
26 recommendations thereon. The resolution may exempt
27 from review certain classes of applications described by
28 amount, project, purpose of assistance sought, or other
29 relevant criteria. The resolution may authorize the
30 agency director to review, comment or make
31 recommendations upon certain classes of applications.
32 and to prescribe by rule supplementary standards and
33 criteria not inconsistent with those contained in the
34 resolution.

35
36 Article 10. *Agency Director Agency Officers and*
37 *Employees*
38

39 66240. The agency board shall appoint, prescribe the
40 compensation for, and may remove at any time, an

1 agency director *and a legal counsel*.

2 66241. The agency director shall be the chief
3 administrative and planning officer and technical adviser
4 of the board. The director shall, subject to the supervision
5 of the board:

6 (a) Direct and administer the preparation,
7 maintenance, regular review and revision of the regional
8 plan, and administer and execute all of the other
9 functions and duties of the ~~district~~ *agency as set forth in*
10 *this chapter.*

11 (b) Appoint and remove personnel of the ~~district~~
12 *agency; with the exception of the legal counsel.*

13 (c) Serve, or designate personnel to serve, as
14 executive secretary to the board.

15 (d) Perform such other duties and exercise such other
16 powers as the board may delegate to him.

17 62241.1. *When the agency board, pursuant to the*
18 *provisions of Article 12 (commencing with Section*
19 *66265), becomes the ex officio governing body of the*
20 *Metropolitan Transportation Commission and of the Bay*
21 *Area Sewage Services Agency, the agency director shall,*
22 *immediately and automatically, become the executive*
23 *director of the Metropolitan Transportation Commission*
24 *and the general manager of the Bay Area Sewage*
25 *Services Agency and shall exercise the powers and duties*
26 *of such offices as provided in Title 7.1 (commencing with*
27 *Section 66500), and in Division 9 (commencing with*
28 *Section 16000) of the Water Code.*

29 66242. *The legal counsel shall be responsible to the*
30 *agency board and shall provide such legal services to the*
31 *agency as the board may require or as are required by the*
32 *laws and Constitution.*

33

34 Article 11. Financial Provisions

35

36 66245. The Legislature finds and declares: that
37 property taxes are one of the principal sources of income
38 and revenue to local agencies providing essential public
39 services within the region; that in many areas high
40 property taxes result in unduly heavy burdens upon

1 property owners, inhibit the furnishing of needed public
2 services; that the functions of the agency are not
3 intended to supplant the functions of local governments
4 but rather to assist local governments by relieving them
5 of those functions that cannot be adequately discharged
6 on a local basis; that taxes to finance the agency should
7 not unreasonably burden property taxation.

8 The Legislature further finds and declares: that the
9 costs and expenses of the agency should be financed from
10 income and revenue other than property taxes.

11 The Legislature further finds and declares that the
12 requirements of this chapter should not impose any
13 additional costs upon local agencies and that therefore
14 the regional planning agency should reimburse local
15 agencies for actual costs they may be required to incur in
16 complying with the provisions of this chapter.

17 66246. The fiscal year of the agency shall begin on July
18 1 of each year and end upon June 30 of the following year.

19 66247. At such time as the agency board may
20 prescribe, but not later than the first regular meeting of
21 the board in May of each year, the agency director shall
22 prepare and submit to the board a budget estimate of the
23 expense of conducting the agency for the ensuing fiscal
24 year.

25 66248. The budget estimate shall be in such form as)
26 the agency may prescribe. The budget estimate shall
27 contain a summary of the fiscal policy of the agency for
28 the budget year and shall include data showing the
29 relation between the total proposed expenditures and
30 the total anticipated income or other means of financing
31 the budget for the ensuing fiscal year, contrasted with the
32 corresponding data for the current fiscal year. The
33 budget estimate shall also contain a statement of the
34 resources of the general reserve fund to be carried over
35 to the ensuing fiscal year. The budget estimate may
36 include an unappropriated balance item to be available
37 for appropriation in the ensuing fiscal year to meet
38 unforeseen contingencies, other than contingencies
39 resulting from temporary insufficiencies in the revenues
40 of the agency.

1 66249. After submission of the budget estimate, the
2 agency board shall fix a time and place for hearing by the
3 board thereon. The agency director shall cause notice of
4 such hearing to be published pursuant to Section 6061 in
5 a newspaper, or newspapers, of general circulation
6 published in the region. The director shall also cause to
7 be mailed notice of the hearing to each county and city
8 within the region and to any other public agency or
9 private person who shall have filed a written request for
10 such notice with the board.

11 Notice required pursuant to this section, shall be given
12 at least 15 days prior to the date set for the hearing.

13 66250. At the budget hearing, the agency board may
14 increase or decrease any item in the budget estimate and
15 may delete any item therefrom or add any new item
16 thereto.

17 66251. Upon the conclusion of the hearing and not
18 later than June 30, the agency board shall approve the
19 budget estimate, as submitted by the agency director or
20 as revised by the board, and thereupon the same shall
21 constitute the final budget for the ensuing fiscal year.

22 66252. The several items of the final budget shall be
23 deemed appropriated for the ensuing fiscal year in the
24 amounts and for the purposes specified in the final
25 budget.

26 66253. For the purpose of providing against
27 temporary insufficiencies in the revenues of the agency
28 and of keeping the payment of the operating expenses of
29 the agency on a cash basis, the agency board shall cause
30 to be created and maintained in the regional treasury a
31 permanent revolving fund known and designated as the
32 "general reserve fund." The fund shall be maintained in
33 such amount as the agency board may specify but shall be
34 sufficient to meet all estimated demands against the
35 treasury for a period of not less than three months or
36 more than six months.

37 66254. If at any time the revenues of the agency shall
38 be insufficient to pay any demand against the agency
39 treasury, as the same becomes due and payable, the
40 agency director may transfer moneys from the general

1 reserve fund to the fund or account in the treasury from
2 which any such demand is payable. Any amount so
3 transferred shall be deemed a loan to the fund or account
4 to which transferred and, upon receipt of revenues, the
5 director shall retransfer such amount to the general
6 reserve fund.

7 66255. The agency board may impose, by ordinance,
8 on each deed, instrument, or writing by which any lands,
9 tenements, or other realty sold within the region shall be
10 granted, assigned, transferred or otherwise conveyed to,
11 or vested in, the purchaser or purchasers, or any other
12 person or persons, by his or their direction, when the
13 consideration or value of the interest or property
14 conveyed (exclusive of the value of any lien or
15 encumbrance remaining thereon at the time of sale)
16 exceeds one hundred dollars (\$100), a tax at a rate not to
17 exceed twenty-five cents (\$0.25) for each five hundred
18 dollars (\$500) or fractional part thereof.

19 66256. Any tax imposed pursuant to Section 66255
20 shall be paid by any person who makes, signs, or issues
21 any document or instrument subject to the tax, or for
22 whose use or benefit the same is made, signed or issued.

23 Such tax shall not be imposed upon any instruments
24 contained within the provisions of Chapter 3
25 (commencing with Section 11921) of Part 6.7 of Division
26 2 of the Revenue and Taxation Code.

27 66257. (a) Every document subject to any tax
28 imposed pursuant to this article which is submitted to a
29 county for recordation shall show on the face of the
30 document the amount of tax due. If the party submitting
31 the document for recordation so requests, the amount of
32 tax due shall be shown on a separate paper which shall be
33 affixed to the document by the recorder after the
34 permanent record is made and before the original is
35 returned as specified in Section 27321.

36 (b) The county recorder shall not record any deed,
37 instrument or writing subject to any tax imposed
38 pursuant to this article, unless the tax is paid at the time
39 of recording. A declaration of the amount of tax due,
40 signed by the party determining the tax or his agent, shall