



LEGISLATIVE PROPOSAL WORKSHEET

I. SUMMARY

- (1) Give a one or two sentence summary of the proposal.

Each region throughout the State must develop a Regional Transportation Plan and link regional transportation, land use, and housing needs through development of a Sustainable Communities Strategy (SB 375, 2008). Recent legislation requires cities and counties to develop a Stormwater Resource Plan that identifies all projects that improve stormwater quality or increase infiltration within a watershed or region (SB 985, 2014). This proposed legislation would add stormwater planning to the Sustainable Communities Strategy process, so regional stormwater planning will be included with regional transportation, land use and housing planning, increasing regional resiliency to climate change.

II. BACKGROUND INFORMATION

A. Problem

- (1) What problem does the proposal address? Give specific facts and examples to illustrate the problem.

Currently, regional transportation planning only includes transportation, land use, and housing needs. If stormwater was included in the planning process then regional plans would help address stormwater quality, groundwater recharge, some aspects of flood protection and some aspects of climate change adaptation (e.g. sea level rise). Stormwater is a major community planning element and should be included in the regional planning process.

- (2) Does the proposal address a problem of statewide significance? Give specific facts and examples, which demonstrate a statewide need for the proposal.

Each metropolitan planning organization or regional transportation planning agency in the State must develop a Regional Transportation Plan, and each region in the State must meet stormwater permit requirements issued by their Regional Water Board. So yes, this legislative proposal is a statewide issue, and including stormwater in these regional plans will allow cities and counties to more cost effectively meet stormwater requirements. However, a Sustainable Communities Strategy is only required in metropolitan planning organization areas, so RTPAs are not included unless they are under the jurisdiction of a metropolitan planning organization. This exempts many rural Northern California counties and rural counties along the Sierra foothills.

- (3) Have counties been involved in any litigation regarding this problem? If so, cite the case.

We are not aware of any litigation regarding the inclusion of stormwater in the regional planning process.

- (4) What other source materials, case law, or data, document the existence of the problem (e.g. periodicals, government agency reports, private studies, law review articles, newspaper articles)?

We are not aware of any studies or case law on this specific topic, but the problem occurs when decentralized treatment and mitigation for stormwater at the project level is not feasible yet there is no regional alternative or a regional alternative is extremely difficult to establish. Having stormwater included in the regional planning process will provide a basis for sound regional alternatives to project level mitigation for stormwater treatment and increase overall resilience to climate change.

B. Interested Parties

- (1) What counties, organizations or individuals are interested in the problem?

All counties and cities, especially urbanized counties and cities in urbanized areas, should be interested in this proposal. In addition, environmental organizations, Regional Water Boards, and developers should also be interested.

- (2) What counties, organizations or individuals would be sources of information about the problem?

Most urbanized counties would be a good source of information about this problem.

- (3) Who would be likely to support/oppose the proposal? Why?

Cities and developers would likely support the proposal because it makes it easier and is more cost effective to meet stormwater quality requirements. Environmental groups would likely support the proposal because it facilitates and increases the likelihood that stormwater treatment projects will be built and that treatment facilities will be more effective at achieving water quality and habitat objectives, and that regions will be more resilient to climate change. Some metropolitan planning organizations or regional transportation planning agencies may oppose this due to a cost increase in the regional planning process. Rural counties should not oppose this proposal as most of them are exempt.

- (4) Identify groups or other governmental agencies that could be affected by the proposal, either favorably or adversely? Please Discuss.

Transportation agencies would find it easier to address stormwater impacts for those projects where stormwater cannot be treated on-site. Developers would also find it easier to identify alternative treatment measures for projects in highly urbanized areas where on-site treatment is not feasible.

III. PROPOSAL

A. Existing Law

- (1) What are the statutory provisions currently applicable to the proposal?

Senate Bill 375 (2008) requires regions in the State to develop a Sustainable Communities Strategy, which currently includes transportation, land use, and housing in the planning process, but does not include stormwater. This legislative proposal would include stormwater in the regional planning process.

- (2) What case law is relevant to this issue? Please summarize and cite.

We are not aware of any case law relevant to this issue.

- (3) Why is existing law inadequate to deal with the problem?

We are not aware of any statutory basis to file a lawsuit and require inclusion of stormwater in the regional plan process.

B. Suggested Legislation

- (1) Describe the specific bill proposal.

There is no specific bill language proposed at this time, however, it makes sense to modify SB 375 (2008) to include stormwater along with housing and land-use when developing a Sustainable Communities Strategy.

- (2) Do similar provisions exist in other California laws?

Senate Bill 985 (2014) requires stormwater resource plans to be inserted into and integrated with Integrated Regional Water Management Plans when they are completed.

- (3) Describe a hypothetical application of the proposal.

For example, in the Bay Area the metropolitan planning organization develops a Sustainable Communities Strategy, termed Plan Bay Area, which currently integrates transportation planning with housing needs and land-use changes. With this legislative proposal the Plan Bay Area process would include planning for stormwater mitigation required by changes to or expansion of transportation systems and housing throughout the region. Including stormwater also means planning for resilience to climate change by recognizing the impacts of sea level rise, and changes to weather patterns with more intense storms that will increase stormwater runoff to transportation facilities, which are major stormwater conveyance systems in the region.

C. Fiscal Impact

- (1) Would there be any potential fiscal impact on counties under the proposal? If so, describe.

There will be increased staff time incurred by counties during the development of their regional Sustainable Communities Strategy. This will include additional time participating with their metropolitan planning organization staff to identify areas for stormwater mitigation, identifying stormwater treatment projects, coordinating with their Stormwater Resource Plan updates, and reviewing and commenting on an expanded Sustainable Communities Strategy.

- (2) Would there be any potential financial impact on other persons or organizations, public or private?

There would be an increase in cost to metropolitan planning organizations to develop a Sustainable Communities Strategy that includes one more element, stormwater.

D. History

- (1) Has this proposal ever been introduced in the Legislature? If so, what was the bill number and why did it fail?

We are not aware of any prior legislation that addresses this problem.

- (2) Is judicial or executive branch resolution of the problem possible? Explain.

We do not believe the problem will be resolved through the judicial or executive branch.

E. Public Policy

- (1) What are the public policy reasons in support of this proposal? Against?

From a policy perspective, the legislature supports regional planning efforts, which is reflected in SB 375 (2008). The Legislature also supports regional planning specifically for stormwater improvements, as required in SB 985 (2014). And the legislature supports integration of regional planning, as required by Integrated Regional Water Management Planning. So, from a policy perspective the legislature should support this legislative proposal. At this time, there are no known policy reasons to oppose this proposal.

- (2) Would any related public policy be affected by this proposal? If so, describe.

We are not aware of any related public policy that would be affected by this proposal. From a CEAC policy perspective, this legislative proposal supports the "Stormwater Funding" legislative priority by increasing the potential that transportation funds could be used for constructing stormwater quality improvement projects.

Regional Stormwater Planning Legislative Proposal

State law (Senate Bill 375 - Chapter 728, Statutes of 2008) requires linking regional transportation, land use, and housing needs through development of a Sustainable Communities Strategy for each region. State law (Senate Bill 985 - Chapter 555, Statutes of 2014) also requires identifying, by watershed or region, all projects that improve stormwater quality or increase infiltration. Many of these stormwater projects are included within transportation corridors, as the objective is to treat stormwater runoff from paved surfaces. This legislative proposal would coordinate and integrate all these planning requirements; transportation, land use, housing, and stormwater needs.

Background

Each metropolitan planning organization (MPO) must develop a Regional Transportation Plan, a long-range framework for improvements to the region's transportation network, and a Regional Housing Needs Allocation, a determination of housing needs for all income levels. MPOs must also complete a Sustainable Communities Strategy that integrates transportation planning with housing and land-use needs. This does not apply to regional transportation planning agencies not within the jurisdiction of a MPO, which excludes many Northern California and Sierra Foothill counties.

Regional Transportation Plans are designed to comply with federal and state laws related to the effects of transportation on public health, environmental protection, and resource management. Likewise, the Regional Housing Needs Allocation process is designed to protect environmental resources. The Clean Water Act identifies water bodies that are impaired, requiring development of attainment plans to meet water quality objectives. These attainment plans are written into stormwater permits, requiring cities and counties to improve stormwater quality.

Transportation systems consist of paved surfaces that speed up stormwater runoff creating downstream erosion and impacts to watershed health. Cars, buses, and trucks generate pollutants such as tire particles, brake dust, and oil residue, negatively impacting water quality standards in State water bodies. Stormwater impacts are often mitigated at the project level, when a transportation system improvement is being planned and developed. The Water Board's long-range goal is when the built environment (transportation, commercial, residential, and public buildings) is rebuilt over the next 50 years that every drop of stormwater landing on an impervious surface will be treated. This vision will be difficult to implement, especially in urbanized areas. If stormwater needs are included in the Regional Transportation Plan process there will be opportunities to address impacts to stormwater on a regional basis rather than later at the project level. Areas can be set aside in each watershed to accommodate mitigation for projects that can't mitigate on-site. The Water Board allows project level impacts to stormwater to be mitigated at a regional level through an alternative compliance process. Regional stormwater solutions can be more cost effective for project implementation and be more beneficial to water quality.

Well-designed stormwater projects, known as green infrastructure, direct stormwater to planted areas to remove pollutants and increase infiltration. Increased infiltration raises groundwater levels and boosts summer flows, allowing riparian and other watershed vegetation to survive and thrive. Maintenance or enhancement of existing watershed vegetation or installation of new vegetation removes carbon from the atmosphere and locks it in plant material, meeting the underlying purpose of SB 375.

SB 375 was a bold step to integrate transportation planning and housing needs. This legislative proposal would include stormwater in that integrated regional planning process. All of these regional planning efforts are interrelated and there are economic, resource management, and social benefits to including stormwater in the Strategic Communities Strategy process.