

DRAFT

Introduced in the Senate January 14, 2005

SB _____; (Senate Housing and Transportation Committee)

Legislative Summary

This bill shall be known as **the California Smart Growth Act of 2005**

California must address sprawl development and the traffic and air quality problems it generates. The California Department of Transportation predicts that sprawl induced traffic congestion will produce catastrophic gridlock unless something is done soon. In its 2003 California Transportation Plan 1025, CalTrans forecasts that within the next twenty years, there will be 10 million more cars on our freeways, producing a 55 percent increase in car trips on our already overcrowded roads, attempting to move nearly 50 million Californians between their homes, jobs and other activities. The plan notes that business as usual, including traditional sprawl development patterns, will not work.

The state legislature recognizes fundamental problems with our economic and political systems contribute to sprawl. State and local land use zoning practices actively subsidize sprawl development. Taxpayer funded new freeways open up previously remote rural farmlands and backcountry, thereby subsidizing sprawl development. Our existing statewide zoning system also provides financial incentives to sprawl developers that buy and subdivide outlying farmland and rural areas, instead of building infill development nearer our urban centers. This happens when a rural property is upzoned by local government, conferring new zoning entitlements to the owner, creating very substantial increases in property value. These windfall profits are then used to subsidize sprawl housing subdivisions in outlying areas of California's counties. These unintentional incentives and subsidies have created a situation in which billions of dollars

are being invested in sprawl development. Every dollar invested in sprawl projects is a dollar not spent improving urban core infrastructure elements needed to support environmentally sensitive infill development.

Unless California begins to reform these economic and political systems now, sprawl development will continue to pave over rural farmland and open space valued by the state and its residents. Sprawl development will continue to radiate further and further out from our urban centers, until it overlaps, overloading our transportation systems, displacing valuable rural areas and farmlands, and polluting our air to the point where federal transportation funds will be lost and public health costs will skyrocket.

Currently, state law allows local governments almost exclusive control over local and regional land use planning, and zoning. This bill would intervene in this process, and divert a portion of the new wealth created by local zoning actions into a new state fund. These funds will be then allocated by the state to make infrastructure improvements closer to urban core areas, enabling them to support more environmentally sensitive infill development. The legislature finds that adoption of this bill is necessary to ensure the health and welfare of all Californians.

The legislature finds that when a local government upzones rural agricultural land or open space, typically as part of a real estate subdivision development project approval process, the action substantially increases the property value of that land. This increase in property value constitutes an unearned windfall profit to the land developer, since it is created solely by the zoning action taken by the local government body, and not by any actions taken by the project sponsor. In this manner, the existing system has conveyed billions of dollars in windfall profits to sprawl developers.

When land is upzoned, the real estate developer then “fiscalizes” the increased value of the property based on its new zoning entitlements: by either selling it off to other developers at a substantial profit, or by borrowing from banks based on the increased value of the land with its new zoning entitlements, to finance the construction of new

housing subdivisions, shopping malls, industrial or office parks on the property. Land originally worth thousands of dollars per acre when zoned for agricultural use instantly becomes worth millions (or hundreds of millions) when it is sold with the new higher density zoning entitlements or borrowed against to build new sprawl subdivisions.

This bill mandates the Counties and the State Board of Equalization to collect and divert a portion of the windfall profits generated by a local government zoning transaction at the time a zoning action is taken. These funds will go into a new Smart Growth Fund within the state treasury, and will be continually appropriated by the legislature to support improvements in urban core infrastructure needed to support environmentally sensitive infill development, thereby mitigating market pressures driving families out of the cities into sprawl subdivisions, creating many of the growing traffic problems outlined by Caltrans in its 2003 report. If residents are able to obtain reasonably priced housing closer to urban core areas, they are less likely to purchase homes in outlying sprawl subdivisions, thereby reducing the pressure on regional transportation systems, and reducing related air quality problems.

This bill amends Section _____ of existing statutes to require local governments and the State Board of Equalization to collect a state zoning transaction fee, along with the other fees developers pay to get their proposed subdivision projects upzoned, processed and approved. The fee shall be collected whenever a property zoned for farmland or rural uses (zoning that allows one dwelling per 50 acre density levels or less) is upzoned to support sprawl development. The fees generated shall be held in escrow until an individual project is upzoned and approved by local officials. If the local government decides not to upzone and approve a sprawl subdivision project, the developer will get the fee back. Ten percent (10% of this new fee shall be used by the state to support continued state agencies enforcement of environmental laws and regulation, and the remainder shall be appropriated by the state to improve local infrastructure near defined urban core areas to allow increased environmentally sensitive infill development.

The state zoning transaction fee shall be determined by mandating each affected local government to direct the local county tax assessor to carefully review each project for which an upzoning action is requested. The assessor shall identify the current market value of the land in its originally zoned state (typically by determining the price the original owner paid for the land, or by reviewing comparable sales of land around the proposed project which were sold as farmland or open space), then determine the value the land will become worth after it is upzoned and the proposed development project approved. The cost of this analysis shall be borne by the property owner asking for the zoning change.

Once the increase in land value due to the zoning action has been determined, the state zoning transaction fee shall be 50% of the net increase in the value of the land after its new zoning entitlements have been approved. The zoning transaction fees shall be conveyed by the local zoning agency to the State Board of Equalization when the property is upzoned and a project permit is approved.

The State Board of Equalization shall collect these fees, and deposit them into a new Smart Growth Fund account to be established by the state treasurer. The BOE and state treasurer shall file an annual report to the governor and legislature summarizing how much funding has been collected each year, and the cumulative balance within the account.

The legislature shall reflect these fees in the annual state budget and appropriate 10% of the existing fund to state regulatory agencies to enforce state environmental protection laws and regulations, and the remainder to local governments for the exclusive purpose of constructing and improving local infrastructure in and around defined urban core areas, to support the redevelopment of those areas with environmentally sensitive infill residential and commercial development.

This legislation shall become effective on January 1, 2006. The California Business, Transportation and Housing Agency shall conduct a study in 2008 to determine

the degree to which the new zoning transaction fees are impacting sprawl development and enhancing infill development. The study report shall be due to the governor and the legislature by December 31, 2008. The cost of this study shall be support from the state's smart growth fund. The legislature reserves the flexibility to increase zoning transaction fees if it is found that their adoption is not having the impact on reducing sprawl development, and improvements to urban core infrastructure necessary to achieve state planning and growth management policies and guidelines.