Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
SB 1418 (Archuleta) – As Amended May 15, 2024

SENATE VOTE: 33-0

SUBJECT: Hydrogen-fueling stations: expedited review.

SUMMARY: Requires cities and counties to create an expedited, streamlined permitting process for hydrogen-fueling stations. Specifically, **this bill**:

1) Provides that, on or before September 30, 2025, every city, county, or city and county with a population of 250,000 or more residents, and, on or before September 30, 2028, every city, county, or city and county with a population of fewer than 250,000 residents, shall, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, adopt an ordinance, consistent with the goals and intent of existing law governing the permitting of EV charging stations and hydrogen-fueling stations, that creates an expedited, streamlined permitting process for hydrogen-fueling stations.

2) Provides that, in developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which hydrogen-fueling stations shall comply to be eligible for expedited review.

3) Clarifies that hydrogen-fueling stations shall meet all applicable state laws and regulations pertaining to hydrogen fueling, including any rules established by the State Air Resources Board, Energy Commission, or Department of Food and Agriculture regarding safety, reliability, weights, and measures.

4) Clarifies that "hydrogen-fueling station" means the equipment and structural design components necessary to ensure the safety of the fueling station, including hydrogen-refueling canopies, that are used to store and dispense hydrogen fuel to vehicles according to industry codes and standards that is are open to the public.

5) Is subject to a sunset date of January 1, 2030.

6) Makes technical and clarifying changes to existing law governing the permitting of electric vehicle (EV) charging stations and hydrogen-fueling stations.

7) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Author's Statement**. "The permitting process for electric vehicle charging stations and hydrogen fueling stations is similar, but has a few key differences. Both applications undergo review by the building official to ensure compliance with health and safety requirements. However, while electric vehicle charging stations require locals to streamline the permitting process, my bill, SB 1418, aims to extend this streamlining process to hydrogen fueling stations, achieving parity in the permitting process for both types of stations.

   "With California's recent success in securing substantial federal funding for clean renewable hydrogen initiatives, such as through the Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) application, the timely passage of SB 1418 is essential to expedite the development and deployment of hydrogen infrastructure, facilitating the transition to a cleaner transportation future."

2) **Hydrogen Fueling**. As an alternative to gasoline-based vehicles, California has more fuel cell EVs (FCEVs) – and the hydrogen-fueling stations necessary to fuel them – than any other state in the nation. In January 2018, Governor Brown signed Executive Order B-48-18, setting targets of 200 hydrogen-fueling stations and 250,000 EV chargers to support 1.5 million zero-emission vehicles (ZEVs) on California roads by 2025. The 2025 target is an interim goal on the state's path to 5 million ZEVs by 2030 and 100 percent of in-state sales of new passenger cars and trucks as ZEVs by 2035. Although the vast majority of those vehicles are projected to be battery EVs supported by EV chargers, the state currently has approximately 8,000 FCEVs on the roads and 61 hydrogen-fueling stations, according to the CEC's Zero Emission Vehicle and Infrastructure Statistics dashboard.

   FCEVs contain a fuel cell, which converts energy stored as hydrogen to electricity to power the vehicle. Similar to refueling a conventional internal combustion engine, a FCEV can be refueled in less than four minutes and have a range of around 300 miles. These characteristics create the potential for FCEVs to replace conventional medium- and heavy-duty trucks and complement battery EVs by providing vehicles that have advantages pertaining to long-range travel.

   The numbers of FCEVs and hydrogen stations have grown in recent years due to various state policies that support the adoption of FCEV technology and infrastructure, beginning with rebates for purchasing FCEVs. Additionally, AB 8 (Perea) Chapter 401, Statutes of 2013, requires the CEC to allocate $20 million annually, as specified, until there are at least 100 publicly available hydrogen-fueling stations in California. The bill also requires the CEC and the California Air Resources Board (CARB) to annually review and report on progress toward establishing a hydrogen-fueling network that provides the coverage and capacity to fuel vehicles requiring hydrogen fuel that are being placed into operation in the state.

   In its analysis of AB 2147 (Mathis) of this year, the Assembly Transportation Committee notes:

   "The construction of hydrogen-fueling stations has been slower than anticipated. At the end of 2023, there were 68 active hydrogen-fueling stations statewide. In the latest 2023 Annual Hydrogen Evaluation Report, previous projections that 100 stations would be fully operational by the end of 2023 have now been pushed back to 2025, based on input from station developers. Several planned fueling stations have been canceled by station

developers, and there have been closures of some existing stations for light-duty passenger vehicles by station operators.

"Station developers cite many factors for the reduced roll-out and closures of hydrogen-fueling stations, including political and economic uncertainty as well as practical challenges with construction, operation, and hydrogen fuel sourcing. On the construction side, the 2023 Report notes that 'securing site access, permitting timelines, utility connection timelines, and other site-specific issues appear to remain barriers to rapidly deploying hydrogen-fueling stations.' There also appear to be hiring difficulties related to the tight labor market, e.g., the limited availability of skilled contractors with specialized experience in hydrogen permitting and construction as well as personnel trained to work with high-pressure hydrogen. Station equipment reliability also remains a challenge. Across operational fueling stations, consumers frequently experience long wait times and occasional equipment failures. Station owners are evaluating strategies ranging from equipment improvements to changes in operational strategies and even workforce development to improve consumer experiences with hydrogen-fueling.

"Looking ahead, California's efforts to deploy hydrogen-fueling infrastructure will be further bolstered by federal funds. In October 2023, the U.S. Department of Energy awarded $1.2 billion to California's Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) through the Regional Clean Hydrogen Hub Program created under the Bipartisan Infrastructure Law. ARCHES is a statewide public-private partnership led by the Governor's Office of Business and Economic Development (GO-Biz), the University of California, the California State Building Trades Council and the Renewables 100 Policy Institute Energy to produce and create a market for renewable hydrogen. The program is expected to focus on hydrogen infrastructure projects in support of three hard-to-decarbonize sectors: heavy-duty vehicles, power plants, and ports."

3) **Permitting EV Charging and Hydrogen-Fueling Charging Stations**. California has been steadily expanding its policies supporting the adoption of EV technology and infrastructure, beginning with incentives for purchasing EVs and requirements on automakers to manufacture specified percentages of EVs in relation to their production of conventional cars. This was followed by statutes governing the degree of authority Common Interest Developments (CIDs) can exercise over the installation of EV charging infrastructure, and prohibitions against specified membership and fee requirements for the privilege of using an EV charging station.

   In 2012, the Governor issued an Executive Order directing the California Air Resources Board (CARB), the California Energy Commission, the PUC, and other relevant agencies working with the California Plug-In Electric Vehicle Collaborative and the Fuel Cell Partnership to develop benchmarks to help support and facilitate the rapid commercialization of zero emission vehicles (ZEVs). The order directed these agencies to establish benchmarks to help the state's ZEV infrastructure support 1.5 million EVs by 2025. Furthering this goal, the Governor's Office of Planning and Research and the State Architect published guidelines to address physical accessibility standards and design guidelines for the installation of EV charging stations throughout California.

   To further these efforts, at the end of 2020, Governor Newsom issued Executive Order (EO) N-79-20, which requires 100% of in-state sales of new passenger cars and trucks to be zero-

emission by 2035. This EO tasks CARB with developing and proposing passenger vehicle and truck regulations requiring increasing volumes of new zero-emission vehicles sold in the State towards that goal. The EO also directs CEC to update the biennial statewide assessment of zero-emission vehicle infrastructure required by AB 2127 (Ting) Chapter 365, Statutes of 2018, to support the level of EV adoption required by the EO.

4) **AB 1236 of 2015**. Responding to the patchwork of California's EV permitting structure and the uncertainty it posed to installers, AB 1236 (Chiu), Chapter 598, Statutes of 2015, placed significant new requirements into law regarding applications to install EV charging stations. AB 1236 required counties and cities to administratively approve an application to install EV charging stations through the issuance of a building permit or similar nondiscretionary permit, and limited review of an application to whether it meets all health and safety requirements of local, state, and federal law. Requirements of local law were limited to those standards and regulations necessary to ensure that the EV charging station will not have a specific, adverse impact upon the public health or safety. AB 1236 allowed a county or city to require an applicant to apply for a use permit under certain circumstances.

   AB 1236 also required local agencies to adopt an ordinance that creates an expedited, streamlined permitting process for EV charging stations. Local agencies must adopt a checklist of all requirements with which EV charging stations must comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist is deemed complete. A local agency must approve the application and issue all required permits once the local agency confirms the application and supporting documents are complete and meet the requirements of the checklist. If a local agency receives an incomplete application, it must issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

5) **SB 1291 of 2022**. SB 1291 (Archuleta), Chapter 373, Statutes of 2022, added hydrogen-fueling stations to the provisions of AB 1236, requiring administrative approval of applications to install hydrogen-fueling stations. This was limited to parcels that are zoned for industrial or commercial development and do not contain any residential units, or to parcels that were previously developed with a service station. Notably, SB 1291 did not extend the expedited, streamlined permitting process to hydrogen-fueling stations. SB 1291 contained a sunset date of January 1, 2030.

6) **Bill Summary**. This bill extends the expedited, streamlined permitting process that current law requires for EV charging stations to hydrogen-fueling stations. Cities and counties with a population of 250,000 or more residents must comply by September 30, 2025. Cities and counties with a population under 250,000 residents must comply by September 30, 2028.

   This bill also clarifies that hydrogen-fueling stations shall meet all applicable state laws and regulations pertaining to hydrogen fueling, including any rules established by the State Air Resources Board, Energy Commission, or Department of Food and Agriculture regarding safety, reliability, weights, and measures. It also clarifies that "hydrogen-fueling station" means the equipment and structural design components necessary to ensure the safety of the fueling station, including hydrogen-refueling canopies, that are used to store and dispense hydrogen fuel to vehicles according to industry codes and standards that is are open to the public.

This bill is subject to a sunset date of January 1, 2030. This bill is sponsored by the author.

7) **Policy Considerations**. The Committee may wish to consider the following: while this bill extends expedited, streamlined permitting to hydrogen-fueling stations, it does not limit the location of these proposed stations as SB 1291 did for ministerial review of these stations. The Committee may wish to consider if these limitations should be added to the bill to ensure expedited, streamlined permitting for hydrogen-fueling stations applies only to parcels that are zoned for industrial or commercial development and do not contain any residential units, or to parcels that were previously developed with a service station.

8) **Committee Amendments**. To address the policy considerations noted above, the Committee may wish to amend the bill as follows:

> GOV 65850.7(g)(1)(B) On or before September 30, 2025, every city, county, or city and county with a population of 250,000 or more residents, and, on or before September 30, 2028, every city, county, or city and county with a population of fewer than 250,000 residents, shall, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, adopt an ordinance, consistent with the goals and intent of this section, that creates an expedited, streamlined permitting process for hydrogen-fueling stations **that meet the requirements of paragraph (2) of subdivision (b)**. In developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which hydrogen-fueling stations shall comply to be eligible for expedited review.

Due to legislative deadlines, this amendments should be adopted in the Transportation Committee.

9) **Related Legislation**. AB 2427 (McCarty) requires local agencies to undertake specified actions regarding the permitting of EV charging stations in the public right-of-way. AB 2427 is pending in the Senate Appropriations Committee.

AB 2559 (Petrie-Norris) requires the Governor's Office of Business and Economic Development (GO-Biz) to create and maintain a publicly accessible internet website to collect information and report delays and denials in the permitting of EV service equipment (EVSE). AB 2559 is pending in the Senate Business, Professions and Economic Development Committee.

SB 347 adds an exemption to the Subdivision Map Act for a hydrogen fueling station or electrical charging station on a parcel that is zoned for industrial or commercial development and does not contain any residential units, or on a parcel that was previously developed with a service station, as specified. SB 347 is pending in this committee.

10) **Previous Legislation**. AB 1504 (McCarty) of 2023 would have required cities and counties to complete a plan for the installation of EV charging stations in the public right-of-way, and made changes to the statewide assessment of EV charging infrastructure the CEC must prepare pursuant to existing law. AB 1504 was held in the Assembly Appropriations Committee.

SB 1291 (Archuleta), Chapter 373, Statutes of 2022, added hydrogen-fueling stations to the provisions of AB 1236.

AB 970 (McCarty), Chapter 710, Statutes of 2021, established specific time frames in which local agencies must approve permits for EV charging stations.

AB 2168 (McCarty) of 2020 was nearly identical to AB 970. AB 2168 was held in this Committee.

AB 1236 (Chiu), Chapter 598, Statutes of 2015, required counties and cities to administratively approve applications to install EV charging stations, and create an expedited, streamlined permitting process for EV charging stations.

11) **Arguments in Support**. The California Hydrogen Coalition writes, "The California Hydrogen Coalition (CHC) writes in strong support of SB 1418 (Archuleta), which will bring parity to the electric vehicle permitting process by streamlining the administrative approval process for hydrogen fueling stations in the same way we do for battery electric charging stations. Specifically, SB 1418 mandates that cities and counties must adopt an ordinance and checklist that creates an expedited, streamlined permitting process for hydrogen-fueling stations. This expedited procedure will ensure that citizens have access to clean energy options without unnecessary administrative hurdles.

"The mission of CHC is to enable California's transition to zero emission vehicles by expanding the availability of reliable, convenient and affordable hydrogen fueling to support the state's emission reduction goals. SB 1418 is a critical tool in the rapid deployment of fueling infrastructure needed to support the state's clean transportation goals. For California to take full advantage of the federal funding provided through the ARCHES hydrogen hub application, policies must be in place to expedite the development and deployment of hydrogen infrastructure. The program will deploy 8,000 zero emission fuel cell trucks and 5,000 zero emission fuel cell buses – all depending on available fueling infrastructure that needs to begin planning and construction now. SB 1418 is one such policy that will help California transition to a cleaner, more sustainable transportation future."

12) **Arguments in Opposition**. The League of California Cities, in an "oppose, unless amended" position, writes, "While Cal Cities respects the policy objectives of SB 1418, we disagree with the approach taken by the measure. Cal Cities supports hydrogen as clean fuel alternative and, in many ways, would prefer it to fuel medium-to-heavy duty public fleets. However, the local permitting process is not the barrier to this industry growing in the state. The largest factors have been the state prioritizing electrification over hydrogen, the cost of hydrogen, the energy required to produce hydrogen, complexities to the production, storage and dispensing of the hydrogen, and the upfront cost of the vehicles…

"Hydrogen is highly flammable and explosive, so systems that use it must comply with strict safety and explosion prevention codes. Land use permits for hydrogen fuel stations may include technical requirements for piping, tankage, fire safety, and more. Expediting and streamlining a process that introduces a highly volatile and difficult-to-contain gas into local communities is dangerous. Decisions about flammable and in certain cases explosive gasses such as hydrogen require careful scrutiny and ample time to ensure that public health and safety is safeguarded…

"SB 1418 requires cities to provide a level of service to hydrogen fuel station applicants unavailable to most all other individuals seeking a permit. According to the California Energy Commission's website, there are 68 hydrogen fueling stations (27 in Los Angeles County) in operation in California. Data from the Hydrogen Fuel Cell Partnership now shows there are 18 permits for hydrogen-fueling stations. Given the relatively small numbers of pending permits and operational hydrogen fuel stations, the effect of SB 1418 would be to compel local agencies with scarce resources to favor the exceedingly low number of hydrogen fuel station permits over all other permit seekers, including solar permit applications. Both that law and this bill depart from longstanding efforts by cities to treat all applicants equally.

"Cal Cities stands opposed unless amended because the measure imposes costly requirements on struggling cities. Under the bill, every city -- no matter its financial resources -- must create a new, costly ordinance to establish an expedited, streamlined permitting and inspection process for hydrogen fuel stations regardless of the demand in the community. SB 1418 would force short-staffed cities to sideline more pressing issues to develop an ordinance and special permit checklist for hydrogen fuel stations that do not exist."

13) **Double-Referral**. This bill is double-referred to the Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Air Products and Chemicals, INC.
Altasea
Calchamber
California Fuels and Convenience Alliance
California Hydrogen Business Council
California Hydrogen Car Owners Association
California Hydrogen Coalition
California Trucking Association
Calstart INC.
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation (BIZFED)

Support If Amended

Modern Hydrogen
Oberon Fuels

Opposition

Asian Pacific Environmental Network
Ballona Institute
CEJA Action
Center for Biological Diversity
Center on Race, Poverty and the Environment

City of Oceanside
City of Seaside
Coastal Lands Action Network
Communities for a Better Environment
Defend Ballona Wetlands
League of California Cities
Sierra Club California
So Cal 350 Climate Action
Social Eco Education
Southern California Watershed Alliance
The Climate Center
The Greenlining Institute
Vote Solar

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