

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1401 (Friedman) – As Amended April 5, 2021

**SUBJECT:** Residential and commercial development: parking requirements.

**SUMMARY:** Prohibits local governments from enforcing minimum automobile parking requirements for developments located close to public transit. Specifically, **this bill:**

- 1) Prohibits local governments from imposing or enforcing a minimum automobile parking requirement for residential, commercial and other developments if the parcel is located within one-half mile walking distance of either of the following:
  - a) A high-quality transit corridor, as defined; and,
  - b) A major transit stop, as defined.
- 2) Provides that when a development includes parking voluntarily, nothing in the bill prevents the local government from requiring the development to include spaces for car share vehicles as a part of the voluntary parking.
- 3) Declares that this bill addresses a matter of statewide concern rather than a municipal affair and therefore applies to all cities, including charter cities.

**EXISTING LAW:**

- 1) Allows a city or a county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.
- 2) SB 375 (Steinberg), Chapter 728, Statutes of 2008, requires the California Air Resources Board (CARB), to set regional targets for greenhouse gas (GHG) reductions and requires each metropolitan planning organization (MPO) to prepare a sustainable communities strategy (SCS) as part of its regional transportation plans (RTP). The SCS demonstrates how the region will meet its GHG targets through land use, housing, and transportation strategies.
- 3) Requires each city or county to adopt a general plan for the physical development of the city or county and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties.
- 4) Authorizes the California Building Standards Commission (BSC) to approve and adopt building standards. Every three years, BSC, in coordination with relevant state agencies, undertakes building standards rulemaking to revise and update the California Building Standards Code (Title 24 of the California Code of Regulations). These building codes serve as the basis for the design and construction of buildings in California.

- a) Under the California Building Code establishes accessible parking standards and minimum levels of parking spaces accessible to persons with disabilities that must be included in new developments as follows:
    - i) For specified multifamily developments two percent of assigned parking spaces and five percent of unassigned visitor parking spaces;
    - ii) For public buildings, public accommodations, public housing and commercial buildings at least one space per parking facility with graduated increases resulting in no less than two percent of total spaces;
    - iii) For hospitals and outpatient facilities, at least 10 percent of patient and visitor parking spaces; and,
    - iv) For rehabilitation and physical therapy facilities at least 20 percent of patient and visitor parking spaces.
  - b) Under the California Green Building Code establishes residential and non-residential parking standards requiring new buildings to provide electric vehicle (EV) parking spaces as specified:
    - i) New single- and two-family dwelling units with attached garages must include infrastructure for EV charging;
    - ii) Multifamily developments must dedicate at least 10 percent of the total number of parking spaces; and,
    - iii) Nonresidential developments must provide at least one EV parking space for buildings with more than 10 parking spaces, and must incrementally increase the number of EV parking spaces provided in parking lots with up to 200 spaces. For developments with more than 200 spaces developments are required to dedicate at least 6 percent of the total spaces for EV parking spaces.
- 5) Defines “Major transit stop” and “high-quality transit corridor” as follows:
- a) “Major transit stop” means a site containing any of the following:
    - i) An existing rail or bus rapid transit station;
    - ii) A ferry terminal served by either a bus or rail transit service; and,
    - iii) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
  - b) “High-quality transit corridor” means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "Mandatory parking requirements have led to an oversupply of parking spaces; Los Angeles County alone has 18.6 million parking spaces, or almost two for every resident. Experts believe that this policy encourages car dependence and discourages mass transit usage, increasing vehicle miles traveled. California needs to reduce vehicle miles traveled by 15% in order to meet its SB 32 climate goals, even in a scenario with full vehicle electrification.

"Mandatory parking requirements also worsen California's severe housing shortage by raising the cost of housing production. On average, a garage costs \$24,000-\$34,000 per space to build, a cost that is passed on to households regardless of whether they own a car. Additionally, on-site parking takes up space that could otherwise be used for additional apartment units.

"AB 1401 does not prohibit property owners from building on-site parking. Rather, it would give them the flexibility to decide on their own how much on-site parking to provide, instead of requiring them to comply with a one-size-fits-all mandate."

- 2) **Bill Summary.** This bill will prohibit a city or county from imposing minimum parking requirements on all developments located within ½ mile walking distance of a major transit stop or a high-quality transit corridor.

This bill is sponsored by the following groups: San Francisco Bay Area Planning and Urban Research (SPUR), California YIMBY, Abundant Housing LA, and the Council of Infill Builders.

- 3) **Background.** The California Constitution provides cities and counties the authority to regulate behavior to preserve the health, safety, and welfare of the public. This provision, (commonly called the police power) gives cities and counties broad authority to regulate land use and other matters, provided that the local policy is "not in conflict with general laws."

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. Through this authority, cities and counties also establish minimum numbers of required vehicle parking spaces for nonresidential and residential buildings.

- 4) **SCS and Infill Development.** SB 375 (Steinberg) represents the land use component of the state's wider strategy to address climate change. The law requires California's MPOs (which are often also councils of government or COGs) to create a SCS as a part of their federally mandated RTP. The SCS demonstrates how the region will meet its GHG emissions reduction targets through land use, housing, and transportation strategies. SB 375 also aligned the Regional Housing Needs Allocation (RHNA) cycle with the RTP and SCS planning cycle.
- 5) **Parking Requirements and Access to Transit.** In support of the state's sustainable communities goals embodied in SB 375, CARB staff collaborated with researchers at the University of California at Davis and University of Southern California to examine the existing scientific literature on the effects of key transportation and land use-related policies

as strategies to reduce vehicle miles traveled (VMT) and greenhouse gas emissions (GHGs). Two policy areas examined were the impacts varying levels of parking pricing and transit access may have on VMT and GHGs.

CARB examined literature that studied the potential for improved access to transit to reduce VMT and GHGs. The review found that VMT reductions generally begin when people reside 2 ¼ miles from a rail station, but only occur within ¾ of a mile from a bus station. VMT reductions are presumed to increase for developments located closer to rail stations and bus stops, however CARB found that “policies that increase access to transit by reducing distances to transit are generally implemented as part of a larger package of land use and transportation measures, making it difficult to isolate the effect of transit access... External factors such as gas prices and the local and global economy may change the reported effect significantly...”

CARB also conducted a limited review of minimum parking requirements and found that parking requirements often result in an over-supply of parking. In reviewing 10 developments in Southern California CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56 percent to 72 percent at each development, suggesting that the minimum requirements established by the local agency created an oversupply of parking.

- 6) **Local Parking Standards.** Cities and counties generally establish parking standards that capture various types of facilities and uses. Parking standards are commonly indexed to conditions related to the building or facility they are associated with. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms present at the facility.

In 2019, CARB staff reviewed over 200 municipal codes and found that for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60 percent of reviewed municipal codes already allow developers to reduce parking by an average of 30 percent, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

- 7) **Eliminating Local Parking Requirements.** There is a significant body of academic research regarding the potential impact minimum parking ratios have on car ownership, VMT, use of public transit, and transportation trends generally. However, while significant research exists, the impacts of parking ratios on VMT and car ownership are difficult to quantify due to the potential for residents to self-select and move to developments based on their existing circumstances or preferences. For example, a person that cannot afford, or wishes to forego, car ownership may choose to live in a development that does not include parking and is adjacent to transit. Conversely, an individual with little interest in transit may choose a development with ample parking spaces. This reality has made it difficult to prove whether increased parking standards induce more driving.

In a recent journal article (*What do Residential Lotteries Show us About Transportation Choices?*), researchers from the University of California found that data from affordable housing lotteries in San Francisco provided a unique setting that effectively randomized housing assignments for housing lottery applicants. The research found that lottery applicants applied indiscriminately for available affordable units without respect to attributes such as

the amount of off-street parking available for any particular unit. This created a setting that allowed researchers to analyze whether individuals essentially “assigned” a home with more or less parking influenced their propensity for car ownership and their driving frequency. The study found “that a building’s parking ratio not only influences car ownership, vehicle travel and public transport use, but has a stronger effect than public transport accessibility.

Buildings with at least one parking space per unit (as required by zoning codes in most US cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking.” Specifically, the study found, “In buildings with no on-site parking, only 38% of households own a car. In buildings with at least one parking space per unit, more than 81% of households own automobiles.”

- 8) **State and Federal Parking Requirements.** The state does not establish minimum requirements related to the number of vehicle parking spaces that must be provided for new developments; however, state regulations include requirements relative to the type of vehicle parking that must be provided as a percent of the total parking required per development. For example, the California Green Building Code requires 10 percent of parking spaces at residential developments and six percent of parking spaces at nonresidential developments to be EV parking spaces. State and federal law additionally require cities and counties to ensure that a specified percentage of vehicle parking spaces at new developments are accessible to persons with disabilities.
- 9) **EV Targets.** In recent years, California aggressively accelerated its push to transition to EVs. In September of 2020, Governor Newsom signed Executive Order N-79-20. The order established a state policy goal that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. To achieve this target, the order, among other policies, directed the California Energy Commission (CEC), in consultation with CARB and the Public Utilities Commission, to update its statewide assessment of zero-emission vehicle infrastructure required to support the new levels of EV adoption.

In January 2021, the CEC updated the *Electric Vehicle Charging Infrastructure Assessment: Analyzing Charging Needs to Support Zero-Emission Vehicles in 2030* and found that, “Building codes are an important tool in supporting Executive Order N-79-20 and should be updated to ensure broad access to ZEV infrastructure for all Californians.” This builds on findings made by CARB in its 2019 technical advisory to the California Building Standards Commission, which advocated for increasing the minimum EV parking requirement. CARB recommended that, based on estimates of new nonresidential parking spaces (1.4-1.7 million new spaces by 2024), the state adopt “a requirement for 10 percent of total parking spaces to install EV charging infrastructure in all nonresidential buildings.” According to CARB staff such a standard, “is the minimum amount of infrastructure necessary to put California on track to meet 2030 PEV [plug-in electric vehicle] infrastructure goals.”

- 10) **Housing Element & Density Bonus Law.** Under Housing Element Law, HCD works with the Department of Finance to develop each region’s projected population growth. Based on these projections, HCD allocates a RHNA share to each MPO/COG for an 8 year cycle (housing cycle). The MPO or COG in turn develops a methodology for distributing its RHNA share among the jurisdictions in its region. For each housing cycle each jurisdiction is allocated a number of units by income category that it must plan for. Jurisdictions submit an annual progress report (APR) to HCD that includes the number of building permits issued for each income category.

Cumulatively the APRs represent the state’s progress toward meeting its housing production targets for each cycle. The most recent APR data represents the progress the state made toward the 5<sup>th</sup> cycle targets for each income category. While several jurisdictions are meeting their targets in various income categories, the statewide data demonstrates that there is severe underproduction of affordable housing (very low and low-income categories). At the same time production of above moderate income housing is the only income category that exceeded production targets. This is due to a range of factors including market demand, and the lack of subsidies and incentives available for very low and low-income housing production.

**5<sup>th</sup> RHNA Cycle APR Summary**

Income Category	RHNA Goal	Units Permitted	Deficit/Surplus
Very low income (<50% AMI)	278,424	31,637	<b>(-)246,787</b>
Low income (51%-80% AMI)	185,525	31,188	<b>(-) 154,337</b>
Moderate income (80%-120% AMI)	204,917	83,356	<b>(-) 121,561</b>
Above moderate income (>120% of AMI)	487,906	489,812	<b>(+) 1,906</b>

While there are limited sources of state dollars to subsidize affordable developments, the state provides other incentives for affordable developments through the relaxation of local standards. One tool the state provides is Density Bonus Law (DBL). Under DBL, the state requires local agencies to offer development incentives or concessions to developers that commit to include specified levels of affordable housing in their development. DBL allows affordable housing developers to meet a vehicle parking standard that is lower than what the local jurisdiction would otherwise require. This can serve as a substantial incentive to develop affordable housing units as it can measurably decrease the overall cost of the entire development.

This bill would allow nonresidential developments and market rate residential developments in certain areas to access the same financial incentives currently reserved for affordable housing developments. Given the current imbalance in housing production, the Committee may wish to consider whether this bill could increase production of market rate housing at the expense of affordable housing production. The Committee may wish to consider whether this bill strikes the right balance for incentivizing different types of housing production.

- 11) **Policy Considerations.** The Committee may wish to consider the following: state and federal requirements for providing EV parking spaces and accessible parking spaces are indexed to the number of parking spaces the development provides. The Committee may wish to consider if the parking reductions provided in this bill will undercut the existing state goals and requirements for furthering EV infrastructure and accessibility for persons with disabilities.
- 12) **Committee Amendment.** In order to address some of the items raised above, the Committee may wish to consider the following amendment: To ensure that this bill does not impact the state’s ability to achieve its EV infrastructure goals, or reduce accessibility for persons with disabilities, the Committee may wish to specify that new multifamily and nonresidential

developments are required to provide the same number of EV parking spaces and the same number of parking spaces that are accessible to persons with disabilities that they otherwise would have had provided had the local parking regulations applied to the development.

- 13) **Arguments in Support.** The California Apartment Association writes in support, “We appreciate the intent of the bill to reduce car dependence, lower carbon emissions, and encourage more housing production near transit. These one-size-fits-all mandates are often imposed even in areas that are close to transit. As you know, mandatory parking requirements have led to an oversupply of parking spaces. These mandatory parking requirements hinder California’s severe housing shortage by raising the cost of housing production. CAA believes that eliminating these spaces will allow for more construction of apartment units.”
- 14) **Arguments in Opposition.** The League of California Cities writes in opposition, “AB 1401 would give both developers and transit agencies, who are unaccountable to local voters, the power to determine parking requirements. Transit agencies would be able to dramatically alter local parking standards by shifting transit routes and adjusting service intervals. As the state aspires to reach its climate goals, the move to electric vehicles will be a part of the solution. However, much like gasoline-fueled automobiles, electric vehicles need parking spaces too. If there are not enough spots to park and charge these vehicles, individuals will remain reluctant to own an electric vehicle.
- “Additionally, AB 1401 could negatively impact the State’s Density Bonus Law by providing developers parking concessions without also requiring developers to include affordable housing units in the project. The purpose of Density Bonus Law is to provide concessions and waivers to developers in exchange for affordable housing units.”
- 15) **Double-Referral.** This bill is double-referred to the Housing and Community Development Committee.

## REGISTERED SUPPORT / OPPOSITION:

### Support

SPUR [SPONSOR]  
 California YIMBY [SPONSOR]  
 Council of Infill Builders [SPONSOR]  
 Abundant Housing LA [SPONSOR]  
 350 Bay Area Action  
 ActiveSGV, a Project of Community Partners  
 Bay Area Council  
 Bay Area Rapid Transit (BART)  
 California Apartment Association  
 California Building Industry Association (CBIA)  
 California Interfaith Power & Light  
 California Restaurant Association  
 Casita Coalition  
 Central City Association  
 Chan Zuckerberg Initiative  
 Circulate San Diego

City of Berkeley's Council District 2  
East Bay for Everyone  
Fieldstead and Company, INC.  
Greenbelt Alliance  
Hello Housing  
Housing Action Coalition  
Lisc San Diego  
Local Government Commission  
Midpen Housing  
Modular Building Institute  
Mountain View Yimby  
Natural Resources Defense Council (NRDC)  
Northern Neighbors  
Peninsula for Everyone  
People for Housing - Orange County  
San Francisco Yimby  
Silicon Valley Leadership Group  
South Bay Yimby  
South Pasadena Residents for Responsible Growth  
Streets for All  
Streets for People Bay Area  
Terner Center for Housing Innovation At the University of California, Berkeley  
Terry Taplin, City Council Member, City of Berkeley  
The Two Hundred  
Tmg Partners  
West Third Street Parking and Public Improvement Association  
Yimby Action  
Zach Hilton, City Council Member, City of Gilroy  
7 Individuals

**Opposition**

California Cities for Local Control  
League of California Cities  
New Livable California DbA Livable California

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