

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1504 (McCarty) – As Amended April 11, 2023

SUBJECT: Planning and zoning: electric vehicle charging infrastructure: public right-of-way.

SUMMARY: Requires cities and counties to complete a plan for the installation of electric vehicle (EV) charging stations in the public right-of-way, and makes changes to the statewide assessment of EV charging infrastructure the California Energy Commission (CEC) must prepare pursuant to existing law. Specifically, **this bill:**

- 1) Requires a local agency to complete a plan for the installation of EV charging stations in the public right-of-way that includes, but is not limited to, a permitting process.
- 2) Requires, in developing the plan and permitting process pursuant to 1), above, the local agency to do all of the following:
 - a) Consult with all of the following:
 - i) Relevant city or county departments, including, but not limited to, publicly owned electric utilities, building departments, planning departments, and transportation departments.
 - ii) External stakeholders, including, but not limited to, disability rights advocates and industry stakeholders.
 - b) Develop and implement a process to solicit input from the public, including, but not limited to, holding at least two public hearings. These hearings may be consolidated with a regular or special meeting of the governing body of the local agency. If a public hearing held pursuant to this paragraph is consolidated with a regular or special meeting of the governing body that includes other substantive agenda items, the public hearing shall begin at a fixed time regardless of its order on the agenda. The governing body may first conclude any item being discussed or acted upon, including any associated public comment, when that fixed time occurs.
 - c) Complete an assessment of existing EV charging stations in the public right-of-way in the jurisdiction of the local agency.
 - d) Complete an assessment of the projected needs for EV charging stations in the public right-of-way in the jurisdiction of the local agency.
 - e) Identify planning and permitting barriers to the installation of EV charging stations in the public right-of-way in the jurisdiction of the local agency.
 - f) Identify, evaluate, and prioritize competing uses in the public right-of-way in the jurisdiction of the local agency, which may include, but are not limited to, any of the following:

- i) Transit, bicycle, and pedestrian uses.
 - ii) Parking for small businesses.
 - iii) Street fairs or other events.
 - iv) Preservation of trees or other plants.
 - v) Street furniture, including, but not limited to, a kiosk, trash receptacle, bench, or public toilet.
- g) Complete an equity analysis to determine locations for EV charging stations in the public right-of-way in the jurisdiction of the local agency that will most effectively and efficiently reduce barriers to equitable access to EV charging stations in the public right-of-way, including, but not limited to, multiunit developments and disadvantaged communities.
- h) Consider and identify the charging level of EV charging stations that may be installed in the public right-of-way.
- i) Develop a location, zoning, or siting framework that considers and identifies, at a minimum, the density of the surrounding development and the types of transportation corridors that are required for the installation of EV charging stations in the public right-of-way.
- j) Develop any site-specific design requirements for EV charging stations in the public right-of-way.
- k) Consider preselecting locations where EV charging stations may be installed in the public right-of-way, consistent with the general plan and zoning ordinances of the local agency.
- l) Identify necessary updates to relevant codes or regulations of the local agency.
- m) Consider and identify the entities that will be allowed to install EV charging stations in the public right-of-way to avoid privatizing public space.
- n) Consider and select ownership or revenue-sharing models the local agency could enter into or allow, including, but not limited to, all of the following:
- i) The EV charging station being owned and operated by a third party.
 - ii) The EV charging station being owned by the local agency and operated by a third party.
 - iii) The EV charging station being owned and operated by the local agency.
 - iv) The EV charging station providing free charging that is supported by advertising revenue.

- v) The EV charging station offering leasing or subscription-based charging.
 - o) Survey and evaluate models developed by other local agencies for the installation of EV charging stations in the public right-of-way.
 - p) Consider one or more pilot programs the local agency could feasibly implement for the installation of EV charging stations in the public right-of-way.
 - q) Establish parking policies that will apply to the locations where EV charging stations would be installed in the public right-of-way.
 - r) Consider limiting the amount of time a permit for an EV charging station in the public right-of-way remains valid to prevent permit holders from holding public right-of-way space for long time periods before installing the EV charging station.
 - s) Develop a checklist of all requirements EV charging stations must comply with to be eligible for a permit in the public right-of-way. Any checklist and required permitting documentation shall be published on a publicly accessible internet website if the local agency has an internet website.
- 3) Requires a local agency with a population of 250,000 or more residents to comply with 1) and 2), above by January 1, 2027. A local agency with a population of fewer than 250,000 residents must comply by January 1, 2029.
- 4) Provides that 1) and 2), above, do not apply to a local agency that has completed a plan for the installation of EV charging stations in the public right-of-way that includes the development of a permitting process and is substantially similar to the provisions of this section by January 1, 2024.
- 5) Provides the following definitions for the purposes of 1) through 4), above:
- a) “Disadvantaged communities” means communities identified as disadvantaged communities pursuant to Section 39711 of the Health and Safety Code.
 - b) “EV charging station” or “charging station” means any level of EV supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code (Part 3 of Title 24 of the California Code of Regulations), as it reads on the effective date of this section, and delivers electricity from a source outside an EV into a plug-in EV.
 - c) “Local agency” means a city, including a charter city, county, or city and county.
 - d) “Public right-of-way” means the area between property lines of a street, easement, tract, or other area dedicated to the movement of vehicles, pedestrians, or goods.
- 6) Specifies that existing provisions of law requiring expedited, ministerial review of a permit for an application to install an EV charging station or a hydrogen-fueling station do not apply to an application to install an EV charging station or a hydrogen-fueling station in a public right-of-way.

- 7) Specifies that existing provisions of law requiring a local agency to approve a permit for an application to install an EV charging station within specified time frames do not apply to an application to install an EV charging station in a public right-of-way.
- 8) Makes the following changes to the statewide assessment the CEC must prepare, pursuant to existing law, of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet specified targets:
 - a) Specifies that the assessment shall include light- and heavy-duty EV adoption.
 - b) Deletes the goals of putting at least five million zero-emission vehicles on California roads by 2030, and of reducing emissions of greenhouse gases to 40 percent below 1990 levels by 2030, and replaces them with the goals specified in Executive Order No. N-79-20 (September 23, 2020), the mobile source strategy updated pursuant to Section 43024.2 of the Health and Safety Code, and the goal of achieving carbon neutrality as soon as possible and no later than 2045, consistent with Section 38562.2 of the Health and Safety Code.
 - c) Requires the assessment to analyze different direct current fast charger power levels, including, but not limited to, 50 kilowatts, 100 kilowatts, 150 kilowatts, and 350 kilowatts, to understand the most cost-effective and equitable charging deployment scenarios, including the cost of needed utility infrastructure upgrades, across different use cases necessary to meet the requirements of Executive Order No. N-79-20 (September 23, 2020).
 - d) Requires the assessment to evaluate the impact of the deployment scenarios described in c), above, on equitable access to publicly available direct current fast chargers, including, but not limited to, in rural, low-income, and disadvantaged communities.
 - e) Revises and recasts specified contents of the assessment to require that, as a part of the assessment, the CEC, in consultation with stakeholders, identify workforce development and training resources needed to meet the goals described in b), above, to meet the array of power levels identified in c), above, and to achieve a cost-effective and equitable electric vehicle charging network in the state. These resources shall include, but are not limited to, qualified apprenticeships, on-the-job training programs, and other training opportunities, including demonstrated field experience with an array of electric vehicle charging technologies and power levels, including those that may not be covered by the curriculum of the Electric Vehicle Infrastructure Training Program, as described in Section 740.20 of the Public Utilities Code, that build career pipelines in the zero-emission transportation sector and provide long-term employment in disadvantaged communities.
 - f) Allows the CEC to use the findings from the assessment to guide its funding allocations for publicly available direct current fast chargers that are intended to serve light-duty electric vehicles.
 - g) Specifies that, in regularly seeking data and input relating to EV charging infrastructure from stakeholders, the charging infrastructure companies consulted must be electric vehicle charging infrastructure companies.

- h) Requires that data requests pursuant to g), above, aim to minimize costs and burdens on stakeholders and to protect driver privacy.
 - i) Allows, pursuant to g), above, entities to request, on a case-by-case basis, that the CEC classify certain data as sensitive.
- 9) Finds and declares that the provisions of this bill requiring local agencies to complete a plan for the installation of EV charging stations in the public right-of-way address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, those provisions apply to all cities, including charter cities.
- 10) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Background.** 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.

- 1) **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.

- 2) **GO-Biz Guidebook.** GO-Biz in July 2019 published the first edition of its “EV Charging Station Permitting Guidebook.” The GO-Biz Guidebook notes, “To support California’s ambitious ZEV deployment goals – 5 million ZEVs in California by 2030 – the state is prioritizing the development of infrastructure to support these vehicles, in the form of plug-in EV charging stations and hydrogen fueling stations. At the most fundamental level, infrastructure enables the deployment of ZEVs. When consumers look to buy a new or used car, they need confirmation that it will be able to take them where they want to go. Widespread availability of infrastructure ensures that Californians will have that confidence... Ultimately, a successful transition to zero emissions hinges on success at the local level.”

According to the GO-Biz Guidebook, “Plug-in EVs (PEVs) as a percentage of new passenger car sales continue to increase. PEV sales exceeded 5% of all new passenger car sales in California 2017 and comprised approximately 8% of sales in 2018. In total, well over 600,000 PEVs have been sold in California as of the publishing of this document. With the increasing popularity of ZEVs and increasing ZEV sales, the need for ZEV infrastructure is increasingly important.”

According to the GO-Biz Guidebook, there were 20,653 public chargers in California as of June 25, 2019. This included:

- a) Level 1 (4–5 miles of range per hour) – 367 chargers at 169 sites;
 - b) Level 2 (12–70 miles of range per hour) – 17,216 chargers at 4,764 sites; and,
 - c) DC Fast (3–20 miles of range per minute) – 3,070 chargers at 685 sites.
- 3) **GO-Biz Guidebook’s Findings and Recommendations on Permitting.** The GO-Biz Guidebook states, “When AB 1236 was being developed, permitting processes and actual timelines varied widely – in many cases adding considerable delay to the station

development process. Delays continue to come from both sides of the equation. Both (local governments) and station developers have reported frustrations with incomplete information...Unfortunately, due to lack of awareness, enforcement, and inconsistent application across the state, a wide variance in permitting processes persists.”

The Guidebook generally recommends as best practices that local agencies determine if an application is complete within five business days, and provide approval to build within 15 business days. It does note, however, that “it is important to consider the unique circumstances of some typical installations.” For fast-charging stations in particular, the Guidebook points out some of the additional considerations not associated with single-family residential charging stations, such as potential requirements for more power, a dedicated power drop, and complex trenching and associated rights-of-way issues.

- 4) **AB 970 of 2021.** In response to the GO-Biz Guidebook’s recommendations, AB 970 (McCarty), Chapter 710, Statutes of 2021, established specific time frames in which local agencies must complete and approve permits for EV charging stations. Under the bill, an application to install an EV charging station is deemed complete if the building official of the city or county has not either deemed the application complete or written a correction notice detailing the deficiencies in the application within specified time periods. Applications are deemed approved 20 business days after the application was deemed complete for an installation of up to 25 charging stations at a single site, or 40 business days for an installation of more than 25 charging stations, if certain conditions are met.
- 5) **EV Charging in the Public Right-of-Way.** According to a report issued by Forth in 2020 entitled *Right-of-Way Charging: How Cities can Lead the Way*, “The electric vehicle (EV) market is booming. By 2030, 18.7 million passenger EVs will be on U.S. roads — and they will require an estimated 9.6 million charging stations to power up. Right-of-way charging will be vital to meet this demand and U.S. cities have a unique opportunity to lead the charge.

“Parking spaces in the right-of-way – the area between neighboring properties, which can include street surfaces, curbs and sidewalks – are valuable and highly visible. When cities decide to install public charging equipment in these areas, it sends a clear, distinct signal of the city’s desire to cut carbon and reduce emissions while simultaneously alleviating range anxiety for potential electric vehicle adopters...

“...to address the climate crisis and support the transition to electric vehicles, cities need to make it easy to find EV charging stations. Yet as recently as 2018, it has been difficult for EV drivers to find public charging in the cities with the highest EV adoption rates...To succeed, the transportation electrification process must begin with top-level leadership. Specifically, with right-of-way charging, cities have the opportunity to lead the way. To bring EV charging stations online, city leaders should:

- Make sure project goals align with the city’s long-term vision.
- Consider innovative approaches and public-private partnerships.
- Clearly identify areas under consideration.
- Use existing infrastructure when possible.

- Include public feedback to support equity.”

The report contains a number of recommendations and best practices for cities to consider when developing right-of-way charging solutions, including aligning EV right-of-way charging with a city’s long-term vision and strategic plan, understanding impacts and audience before selecting a charging technology, pre-selecting areas where right-of-way charging will be considered, balancing competing demands in the right-of-way, clearly outlining the permit application process and requirements, incorporating public opinion into the permit review process, and others.

A focus on equity considerations has been recommended by a number of local jurisdictions, both in California and elsewhere, that have been developing and implementing policies, plans and permitting processes uniquely for the installation of EV chargers in the public right-of-way. Some of the cities in California that have considered and/or implemented programs for EV charging in the right-of-way include Sacramento, Los Angeles, San Jose and Berkeley.

- 6) **Bill Summary.** This bill requires cities and counties to complete a plan, including a permitting process, for the installation of EV charging stations in the public right-of-way. Cities and counties must do a number of things in developing the plan and permitting process, such as consulting with internal and external stakeholders, developing a process to solicit input from the public, assessing the jurisdiction’s existing EV charging stations and its projected need for EV charging stations in the right-of-way, and identifying planning and permitting barriers to the installation of EV charging stations in the right-of-way. Cities and counties must also identify competing uses in the right-of-way, and complete an equity analysis to determine locations for EV charging stations in the right-of-way that will reduce barriers to equitable access. The bill requires a number of additional items that must be considered in developing the plan.

This bill also clarifies that the provisions of AB 1236 and AB 970, which require expedited, ministerial review and approval of EV charging station permits within specified timeframes, do not apply to permit applications for EV chargers in the public right-of-way.

Lastly, this bill makes changes to the statewide assessment of EV charging infrastructure the CEC must prepare pursuant to existing law.

This bill is sponsored by the author.

- 7) **Author’s Statement.** According to the author, “Clean cars are key to California meeting our climate, clean air, and renewable energy goals. In order to meet our ambitious zero emissions vehicle (ZEV) goals, California must ensure fast, accessible, and universal charging infrastructure to support the ZEV transition. Access to charging infrastructure must also consider access and equity. My AB 1504 increases access by allowing curbside charging in the city permitting process, giving residents in multi-family dwellings the ability to charge conveniently, further incentivizing folks who live in urban areas to purchase ZEVs. AB 1504 will also ask the California Energy Commission (CEC) to consider faster charging infrastructure in assessments with an equity consideration.”

- 8) **Related Legislation.** SB 507 (Gonzalez) expands the scope of information the CEC must consider when assessing the state's need for EV charging infrastructure. SB 507 is pending in the Senate Transportation Committee.
- 9) **Previous Legislation.** 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.

AB 2127 (Ting), Chapter 365, Statutes of 2017, required the CEC to conduct a statewide assessment of the EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030 and of reducing emissions of GHG to 40% below 1990 levels by 2030.

- 10) **Arguments in Support.** FLO EV Charging writes, "A curbside charger can be installed on-street or in the ROW, mounted on a utility or streetlight pole or stand-alone pedestal. It can be strategically sited near multi-family housing (MFH), commercial buildings, or in neighborhoods without driveways or garages. Cities like Sacramento, Los Angeles and Oakland have recently begun to recognize curbside charging as a key tool to increase equitable access to charging. Level 2 curbside charging can also be a more cost-effective development option for local governments and allow rideshare drivers, for example, to charge overnight when many utility providers offer lower off-peak electricity rates. "Nearly 50 percent of Californians live in MFH and yet, according to the California Energy Commission, no more than 33 percent of these Californians can access home charging and those with the least access are lower-income and residents of color. For these residents, on-street or ROW charging, particularly located adjacent to MFH can be a viable alternative to home charging. As such, curbside charging represents a huge opportunity to increase charging access to these Californians."

- 11) **Arguments in Opposition.** The League of California Cities, opposed to a prior version of the bill, writes, "No matter how large or complex a proposed EVCS system may be, forcing applications through a compressed timeline and deeming them approved, in a few short days, ignores local jurisdiction's efforts to protect the public. Existing local regulations are not barriers to EVCS deployment, but rather a process, overseen by engineers, safety, and design professionals to protect the public from hazards.

"Additionally, for cities with finite resources, having to focus on certain permit types with very short turnarounds results in fewer resources to expedite other types of permits. AB 1504 would unfairly prioritize EV charging applications for permits over all permittees, including projects related to affordable housing, rebuilding disaster-stricken areas, approving

Americans with Disabilities Act improvements, and other state mandates such as rooftop solar panels.”

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

REGISTERED SUPPORT / OPPOSITION:

Support

FLO EV Charging

Opposition

League of California Cities (prior version)

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