

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 970 (McCarty) – As Amended April 27, 2021

**SUBJECT:** Planning and zoning: electric vehicle charging stations: permit application: approval.

**SUMMARY:** Establishes specific time frames in which local agencies must approve permits for electric vehicle (EV) charging stations. Specifically, **this bill:**

- 1) Requires an application to install an EV charging station submitted to the building official of a city, county, or city and county (local agency) to be deemed complete if, five business days after the application was submitted to the local agency, both of the following are true:
  - a) The building official of the local agency has not deemed the application complete, consistent with the checklist created by the local agency pursuant to existing law added by AB 1236 (Chiu and Low), Chapter 598, Statutes of 2015 (AB 1236); and,
  - b) The building official of the local agency has not issued a written correction notice detailing all deficiencies in the application and identifying any additional information explicitly necessary for the building official to complete a review limited to whether the EV charging station meets all health and safety requirements of local, state, and federal law, consistent with AB 1236.
- 2) Requires an application to install an EV charging station to be deemed approved if, 20 business days after the application was deemed complete, all of the following are true:
  - a) The building official of the local agency has not administratively approved the application pursuant to AB 1236;
  - b) The building official of the local agency has not made a finding, based on substantial evidence, that the EV charging station could have a specific adverse impact upon the public health or safety or required the applicant to apply for a use permit pursuant to AB 1236;
  - c) The building official of the local agency has not denied the permit pursuant to AB 1236; and,
  - d) An appeal has not been made to the planning commission of the local agency, pursuant to AB 1236.
- 3) Requires, if an EV charging station and any associated equipment interfere with, reduce, eliminate, or in any way impact the required parking spaces for existing uses, the local agency to reduce the number of required parking spaces for the existing uses by the amount necessary to accommodate the EV charging station and any associated equipment.

- 4) Provides that, if the EV charging station is being installed in an area that receives electrical service from a local publicly owned electric utility (POU), this bill does not expand or restrict the POU's role and responsibility in providing new electric service to the EV charging station in a manner consistent with safety, reliability, and engineering requirements.
- 5) Finds and declares both of the following:
  - a) An EV charging station has a significant economic impact in California and is not a municipal affair, as the term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern; and,
  - b) Table 3 of the Governor's Office of Business and Economic Development (GO-Biz) Electric Vehicle Charging Station Permitting Guidebook, published July 2019, recommends best practices for EV supply equipment permitting that would establish a 15-day timeline and satisfy the intent of AB 1236.

**EXISTING LAW:**

- 1) Provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities.
- 2) Requires a city or county to administratively approve an application to install EV charging stations through the issuance of a building permit or similar nondiscretionary permit.
- 3) Limits review of the application to install an EV charging station to the building official's review of whether it meets all health and safety requirements of local, state, and federal law.
- 4) Limits the requirements of local law 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.
- 5) Allows a city or county to require the applicant to apply for a use permit if the building official of the city or county makes a finding, based on substantial evidence, that the EV charging station could have a specific, adverse impact upon the public health and safety.
- 6) Prohibits a local agency from denying an application for a use permit to install an EV charging station unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.
- 7) Allows the decision of the building official pursuant to the above provisions to be appealed to the planning commission of the local agency.
- 8) Requires any conditions imposed on an application to install an EV charging station to be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

- 9) Requires an EV charging station to meet applicable health and safety standards and requirements imposed by state and local permitting authorities.
- 10) Requires an EV charging station to meet all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission (PUC) regarding safety and reliability.
- 11) Requires, on or before September 30, 2016, every local agency with a population of 200,000 or more, and on or before September 30, 2017, every local agency with a population of less than 200,000, in consultation with the local fire department or district and the utility director, if the local agency operates a utility, to adopt an ordinance, consistent with the goals and intent of this bill, that creates an expedited, streamlined permitting process for EV charging stations.
- 12) Requires the local agency, in developing an expedited permitting process, to adopt a checklist of all requirements with which EV charging stations shall comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist, as determined by the local agency, shall be deemed complete.
- 13) Requires a local agency to approve the application and issue all required permits or authorizations upon confirmation by the local agency of the application and supporting documents being complete and meeting the requirements of the checklist, as specified.
- 14) Allow counties and cities to establish a process to prioritize competing applications for expedited permits.
- 15) Requires, upon receipt of an incomplete application, a local agency to issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.
- 16) Requires an application submitted to a county or city that owns and operates an electric utility to demonstrate compliance with the utility's interconnection policies prior to approval.
- 17) Allows a local agency, in developing the ordinance, to refer to the recommendations contained in the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" published by the Office of Planning and Research (OPR).
- 18) Allows a local agency to adopt an ordinance that modifies the checklists and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions.
- 19) Prohibits a local agency from conditioning approval for any EV charging station permit on the approval of an EV charging station by a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Bill Summary.** This bill creates new timelines by which local agencies must process applications to install EV charging stations. The timelines are as follows:
  - a) **Completion of Application – five business days.** An application to install an EV charging station is deemed complete five business days after it is submitted to the local agency, if both of the following are true:
    - i) The building official has not deemed the application complete, consistent with the provisions of AB 1236; and,
    - ii) The building official has not issued a written correction notice detailing all deficiencies in the application and identifying any additional information explicitly necessary for the building official to complete a review limited to whether the EV charging station meets all health and safety requirements of local, state, and federal law, consistent with the provisions of AB 1236.
  - b) **Approval of Application – 20 business days.** An application to install an EV charging station is deemed approved 20 business days after the application was deemed complete, if all of the following are true:
    - i) The building official has not administratively approved the application pursuant to the provisions of AB 1236;
    - ii) The building official has not made a finding, based on substantial evidence, that the EV charging station could have a specific adverse impact upon the public health or safety or required the applicant to apply for a use permit pursuant to the provisions of AB 1236;
    - iii) The building official has not denied a permit pursuant to the provisions of AB 1236; and,
    - iv) An appeal has not been made to the planning commission of the local agency, pursuant to the provisions of AB 1236.

If an EV charging station and any associated equipment impact the required parking spaces for existing uses, the local agency must reduce the number of required parking spaces for the existing uses by the amount necessary to accommodate the EV charging station and any associated equipment.

If the EV charging station is being installed in an area serviced by a POU, this bill does not change the POU's role and responsibility in providing new service to the EV charging station in a manner consistent with safety, reliability, and engineering requirements.

This bill is sponsored by Electrify America and the Coalition for Clean Air.

- 2) **Author’s Statement.** According to the author, “In 2015, the Legislature passed AB 1236 which requires local governments to expedite the permitting of EV charging stations. After conducting a comprehensive assessment of local government compliance with AB 1236, the Governor’s Office of Business and Economic Development found that as of March 11, 2021, only 24 percent of cities and counties were in compliance with the law. The consequent delays from slow permitting have resulted in fewer electric vehicle charging stations being built, hindering the state’s objectives to accelerate adoption and increase access to electric vehicles.

“California must take immediate and bold action to transition the market to zero emission vehicles by no later than 2035, clean up our air, and combat climate change. AB 970 is a prudent step along the way, ensuring we build the infrastructure to support electric vehicles by expediting the permitting of EV charging stations.”

- 3) **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 California Air Resources Board (CARB), the California Energy Commission, the PUC, and other relevant agencies working with the Collaboration 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, OPR and the State Architect published guidelines to address physical accessibility standards and design guidelines for the installation of EV charging stations throughout California.

- 4) **AB 1236.** Responding to the patchwork of California’s EV permitting structure and the uncertainty it posed to installers, AB 1236 placed significant new requirements into law regarding applications to install EV charging stations. AB 1236 requires counties and cities to administratively approve an application to install EV charging stations through the issuance of a building permit or similar nondiscretionary permit. Review of an application is limited to the building official’s review of whether it meets all health and safety requirements of local, state, and federal law.

Requirements of local law are 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. However, a county or city may require an applicant to apply for a use permit if the building official makes a finding, based on substantial evidence, that the EV charging station could have a specific, adverse impact upon the public health and safety. The decisions of the building official may be appealed to the planning commission of the local agency.

AB 1236 prohibits a local agency from denying an application for a use permit to install an EV charging station unless it makes written findings based upon substantial evidence in the record that the proposed installation will have a specific, adverse impact upon the public

health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings must include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

Any conditions imposed on an application to install an EV charging station must be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible. An EV charging station must meet specified applicable health and safety requirements and performance standards.

AB 1236 also required, on or before September 30, 2016, every local agency with a population of 200,000 or more, and on or before September 30, 2017, every local agency with a population of less than 200,000, 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) **GO-Biz Guidebook.** GO-Biz in July 2019 published the first edition of its “Electric Vehicle 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 Electric Vehicles (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.

- 6) **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.

- 7) **Previous Legislation.** AB 2168 (McCarty, et al.) of 2020 was nearly identical to this bill. AB 2168 was held in this Committee.
- 8) **Arguments in Support.** A coalition including 350 Silicon Valley, the California Business Alliance for a Clean Economy, the California Electric Transportation Coalition, CALSTART, the Central California Asthma Collaborative, the Coalition for Clean Air, and the Union of Concerned Scientists write, “To create an expedited and consistent permitting process for EV charging stations, the Legislature and Governor Brown in 2015 enacted AB 1236 (Chiu) to require that every city and county in the state enact an ordinance that expedites the permitting of EV charging stations. The law limits permitting reviews to the building official’s review of whether the proposed charging station would have a specific adverse impact on the public health or safety. This was intended to improve the permitting process for both applicants and local governments—creating an easier and faster process for applicants to receive a permit, while easing the burden on local permitting offices that review an increasing number of EV charging station applications.

“However, recent analysis by the Governor’s Office of Business and Economic Development (GO-Biz) has found poor local government compliance with AB 1236, with 76 percent of jurisdictions evaluated found to be out of compliance with the statutory requirements as of this date. As a result, California is not deploying as many EV charging stations as quickly as it could, putting in jeopardy the state’s efforts to attain air quality standards required by state and federal law and to reach the greenhouse gas targets set by the Legislature. Additionally, the Energy Commission has projected that the state will fall short of its 2025 infrastructure deployment goal by approximately 80,000 chargers. Charging infrastructure remains a critical barrier to the state achieving its EV adoption goals.

“AB 970 would speed up EV charging deployment and address the problem of noncompliance with AB 1236 by enacting in statute the best practice timelines for EV charging station permitting review set by Go-Biz, in close consultation with permitting officials and practitioners, which were published in the 2019 Electric Vehicle Charging Station Permitting Guidebook. The bill would codify the best practice timelines by establishing that permit applications would be ‘deemed complete’ or ‘deemed approved’ in situations where the timelines were not followed. California has enacted similar ‘deemed

approved' statutes, including the California Permit Streamlining Act and AB 57 (Quirk, 2015).

“As we face the twin crises of air pollution and climate change, the state needs to clean up the transportation sector, which generates the bulk of our emissions. AB 970 provides a critical solution to ensure that the adoption of ZEVs is accelerated by expediting the development of our EV charging infrastructure across California. For the reasons stated above, we respectfully request your support for AB 970.”

- 9) **Arguments in Opposition.** The Rural County Representatives of California (RCRC), League of California Cities (CalCities), California State Association of Counties (CSAC), Urban Counties Caucus (UCC), and the California Building Officials (CALBO) state, “Existing law, via Assembly Bill 1236 (Chiu, 2015), requires all cities and counties to adopt an ordinance by September 30, 2017, creating an expedited, streamlined permitting process for EV charging stations. Municipalities also have to adopt a checklist for applicants that satisfies the information required to be deemed complete, and therefore eligible for expedited review. While we regret that not all 58 counties and 482 cities have complied to date, model ordinances and guidance documents providing technical assistance to local governments were not available until recently.

“In July 2019, the Governor’s Office of Business and Economic Development (GO-Biz) published the Electric Vehicle Charging Station Permitting Guidebook, including a compliance toolkit with best practices for EV permit streamlining. Since then, our organizations have undergone education and outreach to our members encouraging compliance with AB 1236. Rural/low-population cities and counties face many challenges in reviewing EV charging applications. Some of these challenges include, incomplete or poor quality permit applications, a high volume of permit applications at any given time, lack of adequate staff capacity, and the need for infrastructure upgrades as the result of new device installation. Additionally, EV charging retrofits can be very complex, costly, and technical making a 15-day approval time difficult regardless of jurisdiction type (rural, urban, suburban).

“AB 970 places an untenable burden on local governments and creates a separate and unequal permitting and inspection process specifically for EV charging stations. For cities and counties with finite resources, having to focus on certain permit types with very short turnarounds results in less resources to expedite other types of permits. AB 970 would unfairly prioritize EV charging applications for permits over all permittees, including projects related to affordable housing, health and safety, and other established or emerging industries. Additionally, this approach would not take into account the differences in permittee—whether they are a homeowner seeking a building permit for their plug-in vehicle, or a more complicated installation of a large public charging station.

“While we urge our members to get familiar with the recent AB 1236 guidelines to come into compliance with AB 1236, it must be noted that municipal governments have been issuing EV charging permits regularly and will continue to do so.”

- 10) **Committee Amendments.** In order to address some of the concerns raised by opponents, the Committee may wish to consider allowing a delayed implementation date of January 1, 2023, for jurisdictions that have a population of less than 200,000.



**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Coalition for Clean Air [CO-SPONSOR]  
Electrify America, LLC [CO-SPONSOR]  
350 Silicon Valley  
Alliance for Automotive Innovation  
Amplify Power  
Bay Area Council  
Black & Veatch  
Breathe Southern California  
California Business Alliance for a Clean Economy  
California Electric Transportation Coalition  
California New Car Dealers Association  
California State Association of Electrical Workers  
California State Pipe Trades Council  
Calstart  
Central California Asthma Collaborative  
Coalition of California Utility Employees  
Core States Group  
Cruise LLC  
Electric Auto Association  
Ford Motor Company  
Greenlots  
Los Angeles Cleantech Incubator  
Mayor Eric Garcetti, City of Los Angeles  
Plug in America  
Sacramento Electric Vehicle Association  
Siemens  
Southern California Edison  
Tesla Motors, INC.  
Union of Concerned Scientists  
Valley Clean Air Now  
Silicon Valley Leadership Group (if amended)

**Opposition**

California Building Officials  
California State Association of Counties  
League of California Cities  
Rural County Representatives of California  
Urban Counties of California

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