

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1067 (Portantino) – As Amended June 16, 2022

**SENATE VOTE:** 23-8

**SUBJECT:** Housing development projects: automobile parking requirements.

**SUMMARY:** Prohibits a city or county from imposing or enforcing minimum parking requirements on housing development projects located within one-half mile of a major transit stop, except as specified. Specifically, **this bill:**

- 1) Prohibits a city, including a charter city, or county from imposing or enforcing any minimum parking requirement on a housing development project that is located within one-half mile of a major transit stop, as defined.
- 2) Allows, notwithstanding 1), above, a city or county to impose or enforce parking requirements if the local government demonstrates to the developer, within 30 days of the receipt of a completed application, that the development would have a substantially negative impact, supported by the preponderance of the evidence, on any of the following:
  - a) The city's or county's ability to meet its share of the regional housing need for low- and very low-income households, as specified.
  - b) The city's or county's ability to meet any special housing needs for the elderly or persons with disabilities, as specified.
  - c) Existing residential or commercial parking within one-half mile of the housing development project.
- 3) Provides that the ability to require parking in 2), above, does not apply to a housing development project that satisfies any of the following:
  - a) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.
  - b) The development contains fewer than 20 housing units.
  - c) The development is not subject to parking requirements based on the provisions of any other state law.
- 4) Provides several definitions for the purposes of this bill, and specifies that a "housing development project" does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of the housing development project is designated for use as a residential hotel, as defined.
- 5) Adds the provisions of this bill to the list of laws that may be enforced by the Department of Housing and Community Development (HCD) and the Attorney General, as specified.

- 6) Finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this bill shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this bill.
- 7) Finds and declares that to lower the cost of housing production by reducing unnecessary parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Section 65863.14 to the Government Code applies to all cities, including charter cities.
- 8) Provides that no reimbursement is required by the provisions of this bill 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 bill.

**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) Requires, pursuant to SB 375 (Steinberg), Chapter 728, Statutes of 2008, 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 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) Establishes, under the California Building Code, 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.
  - iv) For rehabilitation and physical therapy facilities, at least 20 percent of patient and visitor parking spaces.
- b) Establishes, under the California Green Building Code, residential and non-residential parking standards requiring new buildings to provide electric vehicle (EV) parking spaces as follows:
- i) New single- and two-family dwelling units with attached garages must include infrastructure for EV charging.
  - ii) Multifamily developments must designate at least 10 percent of the total number of parking spaces provided as EV parking spaces.
  - 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” to mean 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.
  - 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.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) The Department of Housing and Community Development (HCD) estimates cost of approximately \$178,000 annually for 1.0 PY of staff to coordinate with local governments, provide guidance and technical assistance, investigate complaints, conduct enforcement actions, and make referrals to the Attorney General. (General Fund)
- 2) Unknown, likely minor costs for the Attorney General (AG) to take enforcement actions against non-compliant cities and counties that fail to take corrective actions, to the extent HCD refers violations to the AG. (General Fund)
- 3) Unknown local mandated costs. While the bill could impose new costs on local agencies to revise planning requirements for certain developments, these costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "Cities and counties generally require property owners to provide and maintain a certain number of off-street parking spaces. The imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions.

"While some cities have voluntarily moved towards removing parking minimums, others review projects on a case-by-case basis, and some provide for reduced parking requirements with safeguards for protecting the production of units for low-income, senior citizens, and disabled persons. To this end, SB 1067 prohibits a city from imposing any minimum automobile parking requirement on a housing development project that is located within 1/2 mile of public transit as long as specific conditions are met."

- 2) **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.

- 3) **SCS and Infill Development.** SB 375 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.
- 4) **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 the 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 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. This suggests that the minimum requirements established by the local agency created an oversupply of parking.

- 5) **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.

- 6) **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 percent of households own a car. In buildings with at least one parking space per unit, more than 81 percent of households own automobiles.”

- 7) **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.
- 8) **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 BSC, 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.”

- 9) **Bill Summary.** This bill prohibits cities and counties from imposing or enforcing parking requirements on certain housing development projects. Specifically this bill:
  - a) Prohibits the imposition of parking standards on housing developments that are located within ½ mile of a major transit stop if the housing development is less than 20 total units, or the development sets aside a minimum of 20 percent of units for affordable housing, students, the elderly, or persons with disabilities.
  - b) Prohibits cities and counties from imposing or enforcing parking requirements on market rate housing development projects that are located within ½ mile of a major transit stop unless the local agency demonstrates that approving the development without parking would have a specific substantial negative impact on specified existing or proposed developments.
  - c) Adds its provisions the list of laws that may be enforced by HCD and the Attorney General.

This bill is author sponsored.

10) **Policy Consideration.** The Committee may wish to consider the following:

- a) **EV and Accessible Parking.** State and federal requirements for providing EV parking spaces and accessible parking spaces are indexed to the number of parking spaces the development actually includes. 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.
- b) **Clarity.** As currently drafted, in order to deny a project from moving forward without parking, the city or county is required to demonstrate “to the developer” that the development itself (not just the parking reduction the developer seeks) would have a specific substantial negative impact. It is unclear why the local agency is making a demonstration to the developer about the project as a whole rather than adopting written findings about the impacts of reduced parking at the development.

11) **Committee Amendment.** In order to address the policy considerations noted above, the Committee may wish to consider the following amendments:

- a) 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 amend the bill to specify that parking exempt developments are still 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 provided had the local parking regulations applied to the development.
- b) To clarify the provisions related to the findings local agencies make in 65863.14 subdivision (b) the committee may wish to clarify the bill as follows:

65863.14 (b) Notwithstanding subdivision (a), a city, county, or city and county may impose or enforce minimum automobile parking requirements on a housing development project that is located within one-half mile of public transit if the local government *makes written findings* ~~demonstrates to the developer~~, within 30 days of the receipt of a completed application, that *not imposing or enforcing minimum automobile parking requirements on* the development would have a substantially negative impact, supported by the preponderance of the evidence *in the record*, on any of the following

12) **Related Legislation.** AB 2097 (Friedman), would prohibit public agencies from enforcing minimum automobile parking requirements for developments located close to public transit. AB 2097 is pending in the Senate Appropriations Committee.

AB 1401(Friedman), is substantially similar to AB 2097. AB 1401 is pending in the Senate Appropriations Committee.

13) **Arguments in Support.** The California Apartment Association writes in support, “California is in the midst of a housing supply crisis. Unfortunately, parking minimums require private property owners to provide and maintain a certain number of off-street parking spaces that can stifle a new project and drive up costs. While some cities have voluntarily moved toward parking minimums, others seek to maintain local control and review projects on a case-by-case basis. SB 1067 solves this issue by creating a uniform method to limit the impact parking requirements have on the production of new housing.”

14) **Arguments in Opposition.** The City of San Marcos writes in opposition, “SB 1067 would essentially allow developers to dictate parking requirements in large areas of many cities because the definition of public transit includes entire bus routes with fifteen-minute service intervals. Restricting parking requirements within one-half mile of a high-frequency transit route does not guarantee individuals living, working, or shopping on those parcels will actually use transit. Many residents will continue to own automobiles and require nearby parking, which will only increase parking demand and congestion. SB 1067 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.”

15) **Double-Referral.** This bill was double-referred to the Assembly Housing Committee, where it passed on a 6-1 vote on June 15, 2022.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Apartment Association  
California Builders Alliance  
Plug in America  
Sacramento Regional Builders Exchange

##### **Opposition**

City of Beverly Hills  
City of Paramount  
City of Pleasanton  
City of San Marcos  
City of Torrance  
Livable California  
Marin County Council of Mayors and Council Members  
South Bay Cities Council of Governments  
South Pasadena Residents for Responsible Growth  
State Building and Construction Trades Council of California

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