
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2097 (Friedman) - Residential, commercial, or other development types: parking requirements

Version: June 23, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: GOV.&F. 5-0, HOUSING 6-1

Mandate: Yes

Consultant: Mark McKenzie

Bill Summary: AB 2097 would prohibit state and local public agencies from imposing or enforcing a minimum automobile parking requirement on residential, commercial, or other developments located within ½ mile of public transit, as specified.

Fiscal Impact:

- Staff estimates that the Department of Housing and Community Development (HCD) would dedicate up to 0.5 PY of staff time, with a cost of up to \$97,000, to update official memorandum, consult with local governments, and provide guidance and technical assistance. See Staff Comments. (General Fund)
- 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)

Background: 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 a minimum amount of parking that developers must provide for both residential and nonresidential buildings, which are referred to as parking minimums or parking ratios. Local governments commonly index parking minimums to conditions related to the building or facility with which they are associated. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, while hotels and residential units may have parking spaces linked to the number of beds or rooms.

Parking requirements contribute to the cost of development; the average cost per parking space, excluding land cost, for a parking structure in the United States is \$24,000 for an aboveground parking space and \$34,000 for an underground space. Parking requirements can increase the cost of housing production and render some projects infeasible, whether financially as a result of the cost of constructing parking, or physically due to capacity limitations of some sites. Recognizing this, existing law provides various options for reduced parking requirements related to affordable housing. For instance, the Density Bonus Law, which generally incentivizes the inclusion of affordable housing in a development, reduces the amount parking a local government can require in some cases, and eliminates any parking requirements

altogether for a projects within ½ mile of a major transit stop in which 100% of the units in the development are affordable.

Proposed Law: AB 2097 would prohibit public agencies, as defined, in certain cities and counties from enforcing a minimum parking requirement on developments near major transit stops. Specifically, this bill would:

- Define “public agency” as the state or any state agency, board or commission, any city, county, city and county, or commission of the city, county, city and county, or special district, or any agency, board, or commission of those local agencies, joint powers authority, or other political subdivision.
- Prohibit a public agency in a county with a population of 600,000 or more from imposing or enforcing a minimum automobile parking requirement for residential, commercial, or other developments, if the parcel is located within one-half mile of public transit, as specified, and the development is any of the following:
 - A residential development of 40 or fewer housing units.
 - A mixed-use development of 40 or fewer housing units.
 - A residential or mixed-use development of any size in which at least 11% of the units are affordable to very low-income households, 20% of the units are affordable to lower income households, or 40% of the units will be affordable to moderate income households, for at least 55 years.
 - Commercial or other development.
- Prohibit a public agency in a city with a population of 75,000 or more that is located in a county of less than 600,000 residents from imposing or enforcing a minimum automobile parking requirement for residential, commercial, or other developments that meet the above criteria, if the parcel is located within one-quarter mile of public transit, as specified.
- Authorize a city with a population of less than 75,000 or a county with a population of less than 600,000 to adopt an ordinance or resolution that applies the prohibition noted above, in addition to any other authority provided by law to reduce parking requirements.
- Authorize a public agency to impose requirements on parking provided voluntarily to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking.
- Specify that the prohibition on local governments enforcing minimum parking standards does not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide electric vehicle parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development.
- Specify that the prohibition on minimum parking requirements noted above does not apply to commercial parking if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all the required commercial parking is shared with the public. A project may, however, voluntarily build additional parking that is not shared with the public. The prohibition would apply, however, if such an agreement is amended after that date.
- Require the development project, notwithstanding the prohibition, to provide parking, pursuant to a local ordinance requirements, for employees and workers of an event center or a hotel, motel, bed and breakfast inn, or other transient lodging use.

Related Legislation: SB 1067 (Portantino), which is currently pending in the Assembly Appropriations Committee, would prohibit cities and counties from imposing minimum parking requirements on residential housing projects, unless the local agency can make certain findings, as specified. SB 1067 would also authorize HCD to enforce these provisions.

AB 1401 (Friedman), which was held on this Committee's Suspense File last year, was substantially similar to this bill.

Staff Comments: The bill's mandated local costs would not be subject to state reimbursement because local agencies have the authority to charge and adjust planning and permitting fees as necessary to cover administrative costs. Existing law authorizes planning and zoning fees to "include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations." Case law and previous decisions by the Commission on State Mandates support the position that local governments' planning costs are not reimbursable when the state imposes new planning mandates.

Staff notes that this bill could have an impact on a significant number of development projects statewide, and parking issues are a particularly contentious issue when a local agency considers a project. Staff estimates that HCD would dedicate approximately 0.5 PY of staff time annually to coordinate with local governments and provide technical assistance regarding parking requirements as a result of this bill. HCD indicates that it received additional resources and staff in the 2021-22 budget for the Housing Accountability Unit to enhance its technical assistance capabilities, and as a result, the department is unlikely to request additional resources to offset the workload costs associated with this bill.

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