



April 20, 2023

The Honorable Assemblymember Rick Chavez Zbur
1021 O Street, Room 4350
Sacramento, California 95814

RE: AB 1176 (Zbur) Local government. Local Electrification Planning Act – OPPOSE UNLESS AMENDED

Dear Assemblymember Zbur:

The American Planning Association, California Chapter (APA California) write to respectfully oppose unless amended AB 1176, which would create the Local Electrification Planning Act. The Act would require a city or county to either adopt a climate action electrification element as part of the general plan or otherwise amend the general plan to, among other things, identify strategies and enforceable commitments to meet California's greenhouse gas reduction goals by requiring increased electrification of transportation and buildings. The bill would require a city or county to adopt a climate action electrification element or otherwise amend the general plan upon the adoption or revision of the general plan, on or after January 1, 2025, but no later than January 1, 2028.

APA California is a non-profit organization made up of practicing planners, citizens and public officials committed to advancing the practice of local, regional, and statewide planning throughout urban, suburban, and rural California. As adopted in APA California's Legislative Platform, *Plan California*, our organization is supportive of efforts that encourage planning strategies to reduce carbon emissions and facilitate adaptation to the effects of climate change that are effective and equitable. However, we also discourage new mandatory general plan elements, allowing cities and counties the flexibility to determine how to include new mandatory subject matter.

While we certainly appreciate and are supportive of the intended goals behind AB 1176 related to decarbonization and electrification, we are concerned with the level of detail prescribed in the bill. We are also concerned about legal uncertainties and potential federal preemption issues. Specifically, we have the following concerns:

Local Authority vs State Authority

Local agencies don't have the authority to regulate emissions from vehicles, however 65302.13(a)(1) seems to suggest that local agencies are supposed to set local goals or mandates for ZEVs, which is legally impermissible. Instead, that authority rests with the state under the California Air Resources Board and federal agency authority.

Federal Preemption Issues

On Monday, April 17, 2023, the U.S. Court of Appeals for the Ninth Circuit overturned a District Court ruling to invalidate the City of Berkeley's prohibition on natural gas infrastructure in new construction on the ground of federal preemption. Berkeley's ordinance was the first ordinance nationwide to effectively require all-electric construction. Certainly, there could still be ongoing appeals of this decision, and federal laws, regulations, or policies could eventually be changed to fully support electrification. However, it raises questions now as to whether a statewide mandatory electrification planning requirement in the general plan is appropriate at this time, given the ongoing legal uncertainties around federal preemption.

Lack of Resources

Additionally, language around enforceable commitments and incentivizing and subsidizing EV charging stations is concerning. Particularly when there is no dedicated funding associated with subsidizing this infrastructure, in addition to a lack of funding for all the planning mandates in the bill. Local agencies do not have the resources at the local level to provide for the robust planning and infrastructure that the bill dictates. Also required by the bill is a level of technical expertise and staff that many local governments do not have capacity and/or resources for. Instead, we urge the bill to consider state tools and resources that locals can use to help develop local programs.

Existing Building Code Mandates

The California Building Standards Code is updated by the California Building Standards Commission every three years and already mandates how many charging stations need to be provided for in various types of development. Additionally, the California Energy Commission adopts building energy efficiency standards that are cost effective for occupants over the 30-year lifespan of a building. We encourage the bill to look at additional updates through building codes, given that all local building codes must be approved by the state.



Duplication of Existing Laws, Regulations, and Codes

Several of the provisions in AB 1176 appear to duplicate existing laws, regulations, and codes that already largely accomplish some of the same outcomes that the bill is trying to address. Removal of duplicative requirements is needed, in addition to the overall concerns about the prescriptive approach stated previously.

Electric vs. Other Decarbonization Strategies

While the bill focuses on electrification of transportation and buildings, we know that a variety of strategies will need to be deployed to reach carbon neutrality beyond just electrification. The state, along with regional and local governments, all continue to explore a broad range of options, such as hydrogen fuel cells, carbon capture/storage/utilization, natural sequestration in natural and working lands, zero waste strategies, and even reducing vehicle miles traveled and promoting more sustainable land use and development patterns, in order to meet our ambitious carbon neutrality goals by 2045. We are concerned that focusing solely on electrification will leave off the table other GHG reduction and carbon neutrality strategies that ultimately require a more holistic approach to reducing emissions.

General Plans Should be General

Above all, General Plans are intended to be just that and serve as each local government's blueprint for meeting the community's long-term vision for the future. APA California continues to discourage mandating new General Plan elements and/or requiring the level of detail and specificity that this bill proposes.

Climate Action Plans (CAPs) and Other Local Tools

Planners and local agencies across the state already recognize the need to plan to both reduce GHG emissions and increase local capacity and resilience-building to address the growing impacts and risks associated with climate change. CAPs are locally adopted policy tools outlining specific actions that a community will undertake to reduce GHG emissions and/or adapt to climate change. While CAPs are not explicitly mandated in State law, many jurisdictions in California (over 50%, according to CARB) have already adopted CAPs that set locally-based GHG reduction targets and include local commitments to action in reducing GHG emissions. CAPs are one example of ways local agencies are working to address climate change and meeting important state GHG reduction goals across a broad range of strategies, goals, policies, and implementing actions at the community level. Many CAPs prepared today already include policies and actions that support transportation and building electrification. **APA California maintains that flexible approaches to climate action planning, in coordination with resources such as technical guidance and financial resources that should be provided by the State, are the types of solutions that would provide for a better approach.**

We appreciate the time your staff spent with us to discuss the concerns and remain open to additional conversations and ideas in the future. However, for the reasons outlined above, at this time we must oppose AB 1176, unless it is amended to address our concerns. If you have any questions, please contact Lauren De Valencia, Stefan/George Associates, APA California's lobbyist, at 916 443-5301, lauren@stefangeorge.com.

Sincerely,

Erik de Kok, AICP
Vice President Policy and Legislation
APA California

cc:

Assembly Local Government Committee
Assembly Republican Caucus
The Governor
The Office of Planning and Research
The Department of Housing and Community Development