

Date of Hearing: June 27, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Laura Friedman, Chair  
SB 932 (Portantino) – As Amended June 20, 2022

**SENATE VOTE:** 25-10

**SUBJECT:** General plans: circulation element: bicycle and pedestrian plans and traffic calming plans

**SUMMARY:** Requires the circulation element of a general plan to include specified contents related to bicycle plans, pedestrian plans, and traffic calming plans, and provides that failure to implement the plans creates a cause of action for victims of traffic violence. Specifically, **this bill:**

- 1) Requires the legislative body of a city or county, upon the next substantive revision of the circulation element occurring on or after January 1, 2025, to develop or update the plan for a balanced, multimodal transportation network, as specified, and to ensure that the plan includes bicycle plans, pedestrian plans and traffic calming plans for any urbanized area, as defined, within the scope of the county or city general plan.
- 2) Requires a city or county to begin implementation of the plan within two years of the date of adoption of the modified circulation element that includes the bicycle, pedestrian and traffic calming plans.
- 3) Requires the revised circulation element for any urbanized area to include the following:
  - a. The bicycle plans, pedestrian plans, and traffic calming plans to address all of the following:
    - i. Identify safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians, as defined.
    - ii. Use evidence-based strategies to develop safety measures specific to those areas that are intended to eliminate traffic fatalities, with an emphasis on fatalities of bicyclists, pedestrians, and users of any other form of micromobility device, as defined.
    - iii. Establish traffic calming measures around schools and parks, and within business activity districts, as defined.
  - b. Requires a county or city to begin implementation of the modified circulation element plan within two years of the date of adoption of the plan.
    - i. Requires a city or county to complete implementation of the plan for a multimodal transportation network and the construction of any related infrastructure within 25 years of the date of adoption of the modified circulation element.

- ii. Provides that a city or county shall have an additional 10 years to complete implementation if the circulation element contains measures that decrease traffic fatalities by at least 20% within the first 5 years of its implementation period, and the city or county implements those measures within those 5 years.
- 4) Provides that a city or county shall not be required to comply with the requirements of the bill upon making a written finding based on substantial evidence that its failure to comply with the requirements of the bill are the result of unforeseen circumstances outside of the control of the city or county.
- 5) Provides that, from January 1, 2025 through January 1, 2028, the failure by a city or county to comply with the requirements of the bill creates a cause of action for bicyclists, pedestrians, and users of any other form of micromobility device injured as a result of a collision with a motor vehicle within the right-of-way of safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians, as defined, in the following counties:
  - a. Alameda.
  - b. Contra Costa.
  - c. Los Angeles.
  - d. Orange.
  - e. Riverside.
  - f. Sacramento.
  - g. San Bernardino.
  - h. San Diego.
  - i. San Francisco.
  - j. Santa Clara.
- 6) Defines the following:
  - a. “Business activity district” has the same meaning as defined in Section 22358.9 of the Vehicle Code.
  - b. “Land facilities that generate high concentrations of bicyclists or pedestrians” has the same meaning as described in Section 22358.7 of the Vehicle Code.
  - c. “Micromobility device” means a bicycle, electric bicycle, or motorized scooter as those terms are defined and described in Division 1 (commencing with Section 100) of the Vehicle Code.
  - d. “Safety corridor” has the same meaning as defined in Section 22358.7 of the Vehicle Code.
  - e. “Urbanized area” has the same meaning as defined in Section 21071 of the Public Resources Code.
- 7) States the intent of the Legislature to create an annual grant program, and an appropriation, to be awarded to any county or city that shows implementation of timely and effective short-

term efforts to mitigate bicycle, pedestrian, and other micromobility device injuries and fatalities, in order to incentivize any county or city with few financial resources to take small, affordable steps towards fulfilling its traffic and street safety goals.

**EXISTING LAW:**

- 1) Requires every city and county to prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions.
- 2) Requires the general plan to contain seven mandatory elements: land use, circulation, housing, conservation, open-space, noise, and safety.
- 3) Requires the general plan to include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements.
- 4) Requires the open space element to include an inventory of certain categories of open-space lands and an action plan that lays out how the city or county will implement the open-space plan through specific programs.
- 5) States the Legislature’s intention that a county or city general plan and the elements and parts of that general plan comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.
- 6) Requires the legislative body of a city or county to adopt a comprehensive general plan that includes various elements, including a circulation element. The circulation element must consist of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities.
- 7) Requires the legislative body, upon any substantive revision of the circulation element, to modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.
- 8) Defines “users of streets, roads, and highways” to mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

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

- 1) Unknown significant local costs for cities and counties to update circulation elements and to develop and implement bicycle, pedestrian, and traffic calming plans for any urbanized areas within their jurisdiction. The bill includes “local fee disclaimer” language indicating that the bill’s 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)

- 2) Unknown court cost pressures due to increased workload for the judicial branch to adjudicate court filings generated by the new cause of action created by this bill. (Trial Court Trust Fund, General Fund)
- 3) Unknown, major cost pressures to establish, administer, and fund a grant program to provide resources to cities and counties to offset their costs for updating circulation elements, as specified in the bill. (General Fund)

**COMMENTS:** Each city and county must prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions. Seven mandatory elements comprise the general plan: land use, circulation, housing, conservation, open-space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. Cities and counties may adopt optional elements that address issues of their choosing, and once adopted, those elements have the same legal force as the mandatory elements. The general plan must be “internally consistent,” which means the various elements cannot contain conflicting information or assumptions.

Although state law spells out the plans’ minimum contents, it also specifies that local officials can address these topics to the extent to which they exist in their cities and counties, and with a level of detail that reflects local circumstances. Similarly, state law does not require cities and counties to regularly revise their general plans (except for the housing element, which must generally be revised every eight years).

The circulation element must show the general location and extent of major roads, transportation routes, terminals, military airports and ports, and local public utilities and facilities, and it must correlate these features with the land use element.

The California Complete Streets Act of 2008, created via AB 1358 (Leno), Chapter 657, Statutes of 2008, required cities and counties to modify their circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan. For the purposes of this requirement, “users” means bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors. This modification must occur upon any substantive revision of the circulation element.

This bill requires cities and counties to add or include specified contents related to bicycle plans, pedestrian plans, and traffic calming plans upon any substantive revision of the circulation element occurring after January 1, 2025, and to implement those plans within certain timeframes.

*Planning for more biking and walking.* In 2017, Caltrans published the first-ever statewide plan for active modes of transportation, *Toward an Active California State Bicycle + Pedestrian Plan*, with the following vision statement, “By 2040, people in California of all ages, abilities, and incomes can safely, conveniently, and comfortably walk and bicycle for their transportation needs.” Each Caltrans District (1-12) is in the process of completing a districtwide bicycle and pedestrian plan, in order to address active transportation needs along and across the State

Highway System in future construction or maintenance projects. Complementary districts plans identify challenges to people's ability to walk, bicycle, and reach transit, which provides critical transportation routes in towns and cities across California. This represents a crucial step in making walking and bicycling safer, more comfortable, and more convenient.

The latest update of the California Transportation Plan, CTP 2050, states that in the months following the outbreak of COVID-19, more Americans embraced active travel. California cities that typically have low bicycle ridership, such as Riverside and Oxnard, experienced a 90% to 125% increase in bicycle miles traveled. The Rails-to-Trails Conservancy observed a 110% increase in trail use compared to the same period in 2019. Looking to the future, the CTP 2050 estimates that bicycle and pedestrian travel could increase by 45% by 2050.

With active transportation on the rise, the state must ensure bicyclists and pedestrians are safe on and around the roadways. The California Office of Traffic Safety (OTS) reports that California has the highest pedestrian death rate in the nation, nearly 25% higher than the national average. The Federal Highway Administration (FHWA) reports that 75% of pedestrian fatalities occur at non-intersection locations. The California Highway Patrol (CHP) notes that in 2019 there were 1,021 pedestrians killed by vehicles statewide, similar but slightly higher than prior years, of which 667 were the result of the pedestrian crossing against traffic controls or safety laws.

This bill requires the circulation element to develop and implement bicycle plans, pedestrian plans, and traffic calming plans; identify safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians, as defined; use evidence-based strategies to develop safety measures specific to those areas that are intended to eliminate traffic fatalities, with an emphasis on fatalities of bicyclists, pedestrians, and users of any other form of micromobility device, as defined, and; establish traffic calming measures around schools and parks, and within business activity districts, as defined.

*State commitment to fund active transportation.* The active transportation program (ATP) was created by SB 99 (Committee on Budget and Fiscal Review), Chapter 359, Statutes of 2014, to encourage increased use of active modes of transportation, such as walking and biking, and was originally funded at approximately \$123 million a year from a combination of state and federal funds. The goals of the ATP include, but are not limited to, increasing the proportion of trips accomplished by walking and biking, increasing the safety and mobility of non-motorized users, advancing efforts of regional agencies to achieve greenhouse gas reduction goals, enhancing public health, and providing a broad spectrum of projects to benefit many types of users including disadvantaged communities.

SB 1 (Beall), Chapter 5, Statutes of 2017, also known as the Road Repair and Accountability Act, SB 1 directs \$100 million annually from the Road Maintenance and Rehabilitation Account to the ATP, significantly augmenting the available funding for this popular program.

Since its inception, the ATP has funded over 900 active transportation projects across the state benefiting both urban and rural areas. More than 450 of the funded projects are Safe Routes to Schools projects and programs that encourage a healthy and active lifestyle throughout students' lives. In addition, every cycle has seen more than 85% of funds going towards projects that benefit state designated disadvantaged communities.

While the ATP has funded projects across the state, the program is oversubscribed and lacks follow through on how funded projects align with local land use and the general plan. Funding from the ATP may be used for the development of community-wide bike and pedestrian infrastructure, to increase safety and mobility for non-motorized users, build safe routes to schools, or develop active transportation plans.

The Newsom Administration proposed \$1.1 billion for ATP in the 2022-23 budget; the Legislature proposed \$1.5 billion. This bill declares the intent of the Legislature to create an annual grant program and an appropriation thereof to be awarded to any county or city to meet the requirements of the bill and includes additional findings and declarations to support its purposes. However, this bill does not specify a funding source for the grant program.

*Opportunity to better incentivize existing plans and programs.* This bill creates a private right of action in 10 counties, from January 1, 2025 through January 1, 2028, if the city fails to revise the circulation element, and a user of any other form of micromobility device is injured as a result of a collision with a motor vehicle within the right-of-way of safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians.

The unintended consequence of this provision is the private cause of action only applies to a local agency that updates its circulation element, and then fails to implement the plans by the timelines established by this bill. While the private cause of action is intended to ensure that local agencies implement the plans they adopt, it may actually encourage local agencies to delay updating their circulation elements to avoid potentially costly litigation. Additionally, there is nothing in this bill or in existing law that requires local agencies to update their circulation elements by a certain date.

Rather than create a private right of action for failure to update the circulation element, it may be more appropriate to require local input and planning incorporated into the state's active transportation plans, which are currently not required to be updated, realistic, or implementable as outlined in state law.

For an incentive, it may be appropriate to require ATP funds to be allocated in accordance with local priorities and state plans. This bill serves as an opportunity to better implement and appropriately fund active transportation plans and projects.

*Work done, and work to do.* This bill passed the Assembly Local Government Committee on June 15, 2022, 6-2. Committee comments not yet addressed in the bill include:

- a) Aligning the legal liability created by the bill with the areas the cities and counties must address in their updated plans.
- b) Better define actions that would satisfy the requirement to “commence implementation” of a plan, and therefore limit the potential legal liability of local agencies.

*According to the author,* “Despite decades of rhetoric on the need for safer streets, most California streets have grown more dangerous in recent years. California follows a nationwide trend; the National Highway Traffic Safety Administration saw a nearly 20% increase in traffic

fatalities in the first six months of 2021 compared to 2020 or 2019. Some California cities lack data on how to address the epidemic of traffic violence, particularly regarding death and serious injuries to pedestrians, cyclists, and other human-powered-transit users. In certain cities where the most dangerous streets and corridors have been identified, no plan exists to remedy these deadly situations. Even in cities that have developed plans, like Los Angeles' Vision Zero and Mobility Plan 2035, meaningful changes that would save lives have yet to be implemented. SB 932 requires a county or city to include in its General Plan, a map of the high injury network within its boundaries and would further require a county or city to identify and prioritize safety improvements. Thus saving countless lives.”

*In support*, Streets for All writes, “SB 932 will make meaningful changes to California law that will align cities across the State to begin the critical work to not only save lives, but make our streets more equitable and fight climate change.”

*In opposition*, the California League of Cities writes, “SB 932 creates significant new legal liability for local jurisdictions that fail to meet the bill’s arbitrary implementation timeframes. The new private right of action created by SB 932 will be counter-productive to making progress on improving our local streets. Simply put, every additional dollar that goes toward defending against litigation is one fewer dollar available for improving our local streets and roads.”

*Prior legislation*: SB 1425 (Stern) of 2022 requires a city or county to review and update its local open-space plan by January 1, 2026. This bill is pending in Assembly local Government Committee.

AB 1946 (Boerner Horvath) of 2022 requires CHP to develop statewide safety standards and training programs based on evidence-based practices for users of e-bike. *This bill is pending on the Assembly floor.*

AB 2147 (Ting) of 2022 prohibits a peace officer from stopping a pedestrian unless certain provisions are met. *This bill is pending in the Assembly Appropriations committee.*

AB 1238 (Ting) of 2022 repeals provisions of law prohibiting pedestrians from entering a roadway unless vehicles are imposing an immediate hazard and specifies that pedestrians shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present. *This bill was vetoed.*

AB 1358 (Leno) Chapter 657, Statutes of 2008, enacts the Complete Streets Act of 2008 and modify their circulation elements to plan for a balanced multi-modal transportation network that meets the needs of all users of streets, roads, and highways.

SB 806 (Sher) of 2003) changes the name of the circulation element to the transportation element. *This bill died on the Senate Floor’s inactive file.*

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Active San Gabriel Valley  
California Bicycle Coalition  
California Walks  
California Yimby  
Circulate San Diego  
Climate Resolve  
Consumer Attorneys of California  
Culver City Democratic Club  
League of Women Voters of California  
Motional  
Oakland; City of  
Streets are For Everyone  
Streets for All

**Oppose**

City of Colton  
City of Fortuna  
City of Lake Forest  
City of Los Alamitos  
City of Menifee  
City of San Marcos  
City of Yreka  
South Bay Cities Council of Governments  
Transportation Agency for Monterey County (TAMC)  
American Planning Association California Chapter (Unless Amended)  
California Association of Joint Powers Authorities (Unless Amended)  
California Association of Joint Powers Authorities (CAJPA) (Unless Amended)  
California State Association of Counties (CSAC) (Unless Amended)  
City of Buena Park (Unless Amended)  
City of Downey (Unless Amended)  
City of Indian Wells (Unless Amended)  
City of La Mirada (Unless Amended)  
City of Lakeport (Unless Amended)  
City of Lakewood CA (Unless Amended)  
City of Orinda (Unless Amended)  
City of Pico Rivera (Unless Amended)  
City of Rancho Cucamonga (Unless Amended)  
City of Rocklin (Unless Amended)  
City of Thousand Oaks (Unless Amended)  
City of Torrance (Unless Amended)  
City of Vista (Unless Amended)  
County of Santa Barbara  
League of California Cities  
Rural County Representatives of California  
Rural County Representatives of California (RCRC)  
Safer Streets LA (Unless Amended)  
Torrance; City of (Unless Amended)

Town of Apple Valley (Unless Amended)  
Urban Counties of California (Unless Amended)

**Other**

Tri-valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and Town of Danville

**Analysis Prepared by:** Julia Kingsley / TRANS. / (916) 319-2093