

Date of Hearing: June 21, 2022

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

SB 1194 (Allen) – As Amended April 19, 2022

SENATE VOTE: 37-0

SUBJECT: Public restrooms: building standards

SUMMARY: Authorizes a local government to require, by ordinance or resolution, that multi-stall public restroom facilities within its jurisdiction be designed and constructed, as specified, and identified for use by all genders.

EXISTING LAW:

- 1) Establishes the Building Standards Commission (BSC) within the Department of General Services and requires the BSC to administer the processes related to the adoption, approval, publication, and implementation of California’s building codes, which serve as the basis for the design and construction of buildings in California. (Health and Safety Code (HSC) §§ 18901 *et seq.*)
- 2) Requires every public agency conducting an establishment serving the public or open to the public, and that maintains restroom facilities for the public, to make every water closet for each sex maintained within the facilities available without cost or charge. Defines public agency for these purposes as any agency of the state, city, county, or city and county. (HSC § 118500)
- 3) Requires publicly and privately owned facilities, with exception, where the public congregates to be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours. Defines “facilities where the public congregates” for these purposes to mean sports and entertainment arenas, community and convention halls, specialty event centers, amusement facilities, and ski resorts. (HSC § 118505)
- 4) Requires all single-user toilet facilities, as defined, in any business establishment, place of public accommodation, or state or local government agency to be identified as all-gender toilet facilities by signage that complies with Title 24 of the California Code of Regulations, and designated for use by no more than one occupant at a time or for family or assisted use. (HSC § 118600(a))
- 5) Defines “single-user toilet facility” to mean a toilet facility with no more than one water closet and one urinal with a locking mechanism controlled by the user. (HSC § 118600(c))
- 6) Defines “toilet facility” to mean a room or space containing not less than one lavatory and one water closet. (Title 24 California Code of Regulations 220.0)
- 7) Defines “toilet room” to mean a room within or on the premises containing water closets, urinals, and other required facilities. (Title 24 California Code of Regulations 220.0)

- 8) Requires separate toilet facilities to be provided for each sex, except in residential settings and in the following circumstances:
 - a) In occupancies with a total occupant load of 10 or less, including customers and employees, one toilet facility, designed for use by no more than one person at a time, must be permitted for use by both sexes.
 - b) In business and mercantile occupancies with a total occupant load of 50 or less, including customers and employees, one toilet facility, designed for use by no more than one person at a time, must be permitted for use by both sexes.

(Title 24 California Code of Regulations 422.2)
- 9) Requires single use toilet facilities and family or assisted-use toilet facilities to be identified with signage indicating use by either sex. (Title 24 California Code of Regulations 422.2.1)
- 10) Requires, where a separate toilet facility is required for each sex, and each toilet facility is required to have only one water closet, two family or assisted-use toilet facilities, must be permitted in place of the required separate toilet facilities. (Title 24 California Code of Regulations 422.2.2)

THIS BILL:

- 1) Authorizes a city, county, or city and county to require, by ordinance or resolution, public restroom facilities within its jurisdiction to be designed and constructed with single-user toilet compartments and identified for use by all genders.
- 2) Requires public restroom facilities to be designed to serve all genders and to meet all of the following requirements:
 - a) The location of the facility shall be along open circulation paths that will maintain privacy and allow for high visibility of common-use areas for security.
 - b) Water closets shall be designed as single-user compartments and designated for use by no more than one occupant at a time or for family or assisted use.
 - c) Water closets shall be enclosed on all sides by walls or partitions extending from the floor to the ceiling and a door enclosing the fixture for privacy.
 - d) Urinals shall be located either in an area visually separated from the remainder of the facility or in individual compartments.
 - e) Lavatories shall be located either in the same compartment as a water closet or grouped in an immediately adjacent common-use area accessible to all users.
 - f) Adequate light and ventilation shall be provided within each compartment and each area of the facility.
 - g) Signage for toilet facilities and compartments shall identify them for use by all genders.

- 3) Requires single-use toilet facilities to comply with Title 24 of the California Code of Regulations.
- 4) Specifies that adoption of an ordinance or resolution pursuant to this bill shall not be construed as requiring or authorizing a reduction in either of the following:
 - a) The total number of plumbing fixtures that are required pursuant to Title 24 of the California Code of Regulations.
 - b) The number of toilet facilities accessible to persons with disabilities that are required pursuant to Title 24 of the California Code of Regulations or the federal Americans with Disabilities Act.
- 5) Authorizes a city, county, or city and county to exclude certain occupancies from the requirements in this bill.

FISCAL EFFECT: This bill is keyed non-fiscal by Legislative Counsel.

COMMENTS:

Purpose. This bill is co-sponsored by the *City of West Hollywood*, the *City of Santa Monica*, the *TransLatin@ Coalition*, and the *Los Angeles LGBT Center*. According to the author, “California has led the nation in ensuring that safe, accessible, gender-neutral restroom facilities are available to visitors of most public places. However, for more proactive cities and counties, existing statutes have limited their authority to explore innovative methods of expanding access and efficiency. Senate Bill 1194 gives local governments the ability to adopt ordinances or resolutions that require the construction of multiple-stall gender-neutral restrooms in places of newly constructed or majorly renovated public accommodation within their jurisdiction. By empowering local governments to set requirements at the local level, SB 1194 will help cities and counties meaningfully build on their commitment to creating safe and accessible environments for transgender and gender non-conforming people as well as people with disabilities and personal caregivers for children and adults.”

Background.

Building Standards Commission. As noted on BSC’s website, the BSC is charged, in part, with administering California’s building code adoption process; reviewing and approving building standards proposed and adopted by state agencies; codifying and publishing approved building standards in the CBC; and resolving conflict, duplication, and overlap in building standards.

California Building Code. To protect the health and safety of people and property, the California Building Code (CBC; Cal. Code Regs., Title 24) regulates the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures in the state. The CBC is compiled of building standards adopted by state agencies without change from national model codes; building standards adopted and adapted from national model codes; and building standards, authorized by the California Legislature, that address issues and concerns specific to California. The CBC is published every three years, though intervening code adoption cycles produce supplements 18 months into each triennial period. Amendments to

California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle.

The California Plumbing Code is adopted and amended from the Uniform Plumbing Code, which is developed by the International Association of Plumbing and Mechanical Officials (IAPMO). The California Plumbing Code currently requires that separate toilet facilities be provided for each sex, although IAPMO is in the process of updating the Uniform Plumbing Code, which California traditionally adopts and amends for state use, to include building standards for multi-stall, gender-neutral bathrooms. BSC expects to adopt these standards during the 2024 Triennial Code Adoption Cycle, although the standards would not be effective until 2026. However, the Governor's office has instructed the Division of the State Architect and the BSC to begin developing regulations for multi-stall, gender-neutral bathrooms for the 2022 Intervening Code Adoption Cycle, although these standards would apply only to facilities within each entity's jurisdiction (e.g. K-12 public schools, California community colleges, and state-owned property, including California State University and University of California campuses).

Local government. Notwithstanding state facilities (e.g. government buildings, public universities, and prisons), local governments are required to enforce the CBC. Most local governments adopt the CBC in local ordinances, and when they do not, the CBC becomes the applicable code by default. Local governments may adopt ordinances that differ from the CBC pursuant to express findings that amendments are reasonably necessary because of local climatic, geological, topographic, or environmental conditions. To be enforceable, an amendment must be filed with the BSC.

Prior Related Legislation.

AB 1732 (Ting), Chapter 818, Statutes of 2016, requires all single-user toilet facilities in any business establishment, place of public accommodation, or government agency to be identified as all-gender toilet facilities, as specified.

ARGUMENTS IN SUPPORT:

The *City of West Hollywood* writes in support as a co-sponsor of this bill:

SB 1194 promotes safety for transgender and gender non-conforming individuals as it removes the gender differentiation within bathrooms by making private stalls, all gender. This simple action means a world of difference for members of our community who have, and continue to suffer, aggression and acts of violence just because they are transgender or do not conform to traditional heterogender stereotypes.

SB 1194 is also an important measure that provides relief for people with ambulatory restrictions who need assistance from a caretaker when using a bathroom. At times, the caretaker's gender may be the opposite of the client and entering a bathroom can become an issue. Multi-stall gender neutral bathrooms for disabled individuals eliminate this problem, and afford disabled individuals the dignity, privacy and assistance they need and deserve.

Finally, as Senator Nancy Skinner indicated during the bill's hearing by the Senate Housing Committee on April 27, 2022, multi-stall gender neutral bathrooms are also a good way to address the disparity we are all witness to when attending large events or at movie theaters, and we see long lines in the female bathrooms and no lines in the male bathrooms. Having a multi-stall gender neutral bathroom will equalize the access to bathrooms for all genders, by making these stalls available to anyone.

The *City of Santa Monica* writes in support as a co-sponsor of this bill:

Clean, accessible, and safe restrooms are a universal need, and the City of Santa Monica has strived to ensure that public restrooms are available to all of our residents and visitors. However, the City recognizes that there is a need for more inclusive gender-neutral restroom facilities that will benefit all including gender diverse and transgender individuals, for those individuals that require the assistance of a caregiver of a different gender, and for parents with children of different genders.

SB 1194 would give cities and counties the flexibility and a clear implementation path to require all restrooms in public to be gender neutral. The state's current building and plumbing codes require that separate toilet facilities be provided for each gender however, the City of Santa Monica believes that requiring gender-neutral public restrooms without reducing the total number of plumbing fixtures provided is a safer and more inclusive alternative.

The *American Civil Liberties Union California Action* writes in support of this bill:

Trans, gender nonconforming, and intersex (TGI) people, especially trans women of color, suffer rates of violence and discrimination that are much higher than the community at large. Gendered restrooms, which can serve as a location of gender-policing, can be dangerous for TGI people to enter, subjecting them to the risk of violence. They can also force TGI people who do not identify as male or as female to choose between using a restroom that does not match their gender identity or putting themselves at risk of UTIs or other complications from not using the bathroom when needed. TGI people should not have to experience high levels of anxiety when using a public restroom...[this bill] would address this issue by allowing local governments to require newly constructed or majorly renovated public multi-user bathrooms in their jurisdiction be designed and constructed with all-gender single-user toilet compartments.

Disability Rights California writes in support of this bill, "[This bill] removes any awkwardness for a person living with mobility/ambulatory limitations when using a restroom with the assistance of a caregiver, who may happen to be of the opposite gender. Using a restroom should not require much thought from any human being."

ARGUMENTS IN OPPOSITION:

None on file.

POLICY ISSUES:

Codifying building standards. The BSC has not developed or approved building standards for multi-stall, gender-neutral bathrooms, and this bill would bypass the BSC's building standards development and approval processes by codifying specific building standards for local jurisdictions to adopt by ordinance or resolution. Notably, the building standards prescribed by this bill may conflict with future building standards adopted by the BSC and the State Architect.

Breadth. This bill authorizes local jurisdictions to require, by ordinance or resolution, public restroom facilities within their jurisdiction to be *designed and constructed* with single-user toilet compartments and identified for use by all genders. Moreover, the bill authorizes local jurisdictions to exclude certain occupancies from this requirement. However, the bill does not explicitly prohibit local jurisdictions from requiring existing public bathrooms to be renovated in order to comply with a local ordinance or resolution requiring public bathrooms to be gender neutral.

IMPLEMENTATION ISSUES:

Bill Terminology. This bill includes a number of terms that are undefined, used inconsistently, or may otherwise cause confusion for local jurisdictions and design professionals.

AMENDMENTS:

- 1) In anticipation of future statewide building standards pertaining to multi-stall, gender-neutral bathrooms, make the bill's specified building standards optional, thereby allowing local jurisdictions to develop and adopt their own standards if the jurisdiction requires public bathrooms in their jurisdiction to be gender neutral.
- 2) To prohibit a local jurisdiction from requiring existing bathrooms to be modified, limit a local jurisdictions authority to require multi-stall, gender-neutral bathrooms to new construction and bathrooms undergoing significant renovation.
- 3) To reduce confusion and ease implementation, clarify the bill's terminology by using existing terms in statute and regulations and making the language consist throughout the bill.

REGISTERED SUPPORT:

City of Santa Monica (*co-sponsor*)
City of West Hollywood (*co-sponsor*)
Translatin@ Coalition (*co-sponsor*)
ACLU California Action
American Institute of Architects California
Disability Rights California
Equality California
Mayor Eric Garcetti, City of Los Angeles

REGISTERED OPPOSITION:

None on file.

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