



## SB-1214 Planning and zoning: local planning. (2021-2022)

SHARE THIS:



Date Published: 08/30/2022 04:00 AM

### Senate Bill No. 1214

#### CHAPTER 226

An act to add Section 65103.5 to the Government Code, relating to land use.

[ Approved by Governor August 29, 2022. Filed with Secretary of State August 29, 2022.  
]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1214, Jones. Planning and zoning: local planning.

Existing law, the Planning and Zoning Law, establishes in each city and county a planning agency with the powers necessary to carry out the purposes of the law. Existing law requires the legislative body of each city and county to by ordinance assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. Existing law authorizes a legislative body to establish for its planning agency any rules, procedures, or standards that do not conflict with state or federal law.

This bill would require a local planning agency to ensure architectural drawings that contain protected information, as defined, are made available to the public in a manner that does not facilitate their copying, as specified. By requiring a planning agency to take specified actions with respect to architectural drawings, this bill would create a state-mandated local program. The bill would authorize a planning agency to maintain official copies of architectural drawings with protected information submitted to the agency, subject to specified restrictions. The bill would also authorize a planning agency to take specified actions regarding these architectural drawings. The bill would also authorize a planning agency to provide a copy of or post a site plan or massing diagram, as defined, on the internet and allow the site plan or massing diagram to be copied.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65103.5 is added to the Government Code, to read:

**65103.5.** (a) In compliance with Section 65102, a local planning agency shall ensure architectural drawings that contain protected information are made available to the public in a manner that does not facilitate their copying, as provided in this section.

(b) A local planning agency may maintain official copies of each set of architectural drawings submitted to the agency. Unless permission is granted by the design professional or the owner of the copyright, if different from the design professional, if an official copy of the architectural drawings maintained by the planning agency contains protected information, that copy shall be subject to the following restrictions:

(1) It shall be open for inspection and public review only on the premises of the planning agency as a public record.

(2) It shall not be copied by a member of the public without the permission of the design professional or the owner of the copyright, if different from the design professional.

(3) A local planning agency shall not provide copies of architectural drawings or postarchitectural drawings that contain protected information on the internet.

(c) Notwithstanding subdivision (b), a local planning agency may do any of the following regarding architectural drawings that contain protected information:

(1) Make copies of the architectural drawings for internal official review by the planning agency, legislative body, government agencies, or other government bodies responsible for the official review of architectural drawings.

(2) Distribute copies to members of the legislative body and members of the planning agency's governing body. Those copies shall not be required to be made available to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) Display a copy on the internet and a copy physically on premise during a public hearing of the planning agency or legislative body where a development application that incorporates those architectural drawings is being considered by the planning commission or legislative body.

(d) A local planning agency may provide a copy of or post a site plan or massing diagram, or both, on the internet and may allow a site plan or massing diagram, or both, to be copied.

(e) Upon submission of an official copy of architectural drawings to a local planning agency, the design professional or the owner of the copyright, if different from the design professional, may also submit to the planning agency a site plan or a massing diagram for posting online or for distribution to the public, upon request. If the design professional or the owner of the copyright, if different from the design professional, elects not to submit a site plan or massing diagram upon submission of an official copy of architectural drawings to a local planning agency, permission is deemed granted for the purposes of subdivision (b) and the planning agency shall not be subject to any restrictions on the copying or distribution of those architectural documents. The planning agency, or other governing body, shall not compel such permission.

(f) For the purposes of this section, the following definitions apply:

(1) "Massing diagram" means a document that displays the three-dimensional form of a building and describes the general profile, bulk, setbacks, and size of the building, but does not contain specific architectural detail.

(2) "Protected information" means an architectural drawing that meets both of the following conditions:

(A) It is protected by the federal Copyright Act of 1976 (Public Law 94-553) as amended by the federal Architectural Works Copyright Protection Act of 1990 (Public Law 101-650).

(B) It contains a copyright annotation indicating it is protected by the federal Copyright Act of 1976 (Public Law 94-553).

(3) "Site plan" means a document for a project that is drawn to scale and displays all of the following:

(A) Property lines.

- (B) Setback lines.
- (C) Topographic lines.
- (D) Easements.
- (E) Drainage.
- (F) Utilities.
- (G) Lighting.
- (H) Driveways.
- (I) Surrounding streets and traffic flow.
- (J) Parking lots and parking spaces.
- (K) Landscaped areas.
- (L) Setback distance between buildings and property lines.
- (M) Outline of existing and proposed buildings and structures.
- (N) Distance between buildings.
- (O) Ground sign location.

**SEC. 2.** The Legislature finds and declares that Section 1 of this act, which adds Section 65103.5 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act balances the public's right to access information relied upon by public bodies while protecting the intellectual property interests of design professionals and owners of copyrights.

**SEC. 3.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



FREE ZERO NET CARBON DESIGN CE FOR ALL

[ABOUT](#) ↓[PRACTICE](#) ↓[CLIMATE ACTION](#) ↓[ADVOCACY](#) ↓[AWARDS](#) ↓[NEWS](#) ↓[MEMBERSHIP](#) ↓

# Bill Protecting Architects' Copyright is Signed into California Law

SEPTEMBER 20, 2022 | [PRESS ROOM/RELEASES](#) | [AIA CALIFORNIA](#)

## For Immediate Release

September 20, 2022

Contact:

Tibby Rothman, Hon. AIA|LA

Communications Director, AIA California

[trothman@aiaocalifornia.org](mailto:trothman@aiaocalifornia.org)

## **Bill Protecting Architects' Copyright is Signed into California Law**

State Senator Brian Jones Carried SB1214 Bill initiated by AIA California Member Cary Bernstein, AIA

(Sacramento, CA) The American Institute of Architects California (AIA California) is pleased to announce the passage and signing of California legislation the organization sponsored that protects the copyright of architectural drawings submitted to local government planning departments.

SB1214 (Jones) helps stop local governments from violating federal law by limiting the type of information prepared by architects that local planning departments can make available to the public in a copyable format. This limit is put into place to protect the intellectual property rights of architects as protected by the Federal Copyright Act. SB 1214 goes into effect January 1, 2023.

"The law balances California's Ralph M. Brown act which ensures the public's right 'to attend and participate in meetings of local legislative bodies' with long-standing federal copyright laws that protect architectural drawings," notes Cary Bernstein, AIA, the AIA California member who initiated the bill.

With the advent of electronic permit filing, some planning departments have posted architectural drawings online, in the spirit of government transparency, but with the effect of providing global access to architectural drawings in ways they can easily be downloaded and copied without the designer's knowledge or consent, a violation of the federal Copyright.

The bill allows for site plans and massing diagrams to be provided to the public digitally or on paper: these drawings provide members of the public with primarily quantitative information such as the distance between buildings, setbacks distances, location of

## Featured

### WHITE PAPER

COTE Network:  
Raising the Bar: Bringing  
Climate Action Into Design  
Awards Programs



WHITE PAPER:  
CLIMATE ACTION  
IN DESIGN  
AWARDS

SEPTEMBER 8, 2022

parking lots, property lines, landscaped areas, and a three-dimensional form of buildings that describe the general profile, bulk, and size but limits the exposure of design expression which is the primary concern of copyright protection.

Non-digital, printed plans will remain accessible to the public on the premises of the planning agency and during hearings of the planning agency or legislative body.

Bernstein began working on what would become SB1214 when a colleague let her know that they had downloaded an application she had filed for a “complicated entitlement approval” from a city’s planning department’s website. “It was a compliment,” she says, “but it also initiated questions for me about why my drawings were available online and could be copied by anyone at any time.”

She began researching state management of federal copyright laws in 2019.

“I happen to love law and this issue allowed me to indulge my interest through a project for AIACA,” says Bernstein. When “it became clear that a state-level response was warranted” she brought the issue and a draft remedy for it to the AIA California Advocacy Advisory Committee of which she is a member. California State Senator Brian Jones subsequently agreed to carry the bill.

Bernstein also credits attorney Steven Weinberg of Holmes Weinberg, PC, who was a co-author of the 1990 amendment to federal architectural copyright law known as the Architectural Works Copyright Protection Act for the advice he provided during early stages. “There are few people more first-source than Steven and he was gracious with his time and counsel,” she notes.

Bernstein worked with the AIA California’s Advocacy Advisory Committee, the AIA California Vice President of Government Relations Robert Ooley, FAIA, and AIA California staff and consultants during the roughly two-year process.

“SB 1214 is reflective of two major tenets,” says AIA California Executive Vice President Nicki Dennis Stephens, Hon. AIA, “The equivalence of an architect’s work with other fields such as art and music, and the capabilities of the individual to make a change. The AIA California was honored to work with Cary Bernstein, AIA, on this important law, as well as the members of its Advocacy Advisory Committee led by Robert Ooley, FAIA.”

Signed by Governor Gavin Newsom on August 29<sup>th</sup> SB1214 will take effect on January 1, 2023 as Government Code 65103.5.

AIA California



Celebrating over 75 years of service, the AIA California actively promotes the value of design and advocates for the architectural profession. AIA CA is an association of 11,000 dedicated and passionate members who share a commitment to design excellence and livability in California’s natural and built environments.

The Voice of the Architectural Profession in California.

