

AMENDED IN SENATE MAY 29, 2025

AMENDED IN SENATE MAY 28, 2025

AMENDED IN SENATE MAY 13, 2025

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

SENATE BILL

No. 79

Introduced by Senator Wiener

January 15, 2025

An act to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Housing development: transit-oriented development: California Environmental Quality Act: public transit agency land.

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a land use element and a housing element. Existing law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Existing law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals,

policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act's provisions, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, or commercial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed requirements, as specified. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a

high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units and to include housing for lower income households, as specified. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, if the land is within $\frac{1}{2}$ mile of a TOD stop and the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

This bill would authorize a local government to enact a local TOD alternative plan as an amendment to the housing element and land use element, and would exempt a local government that has enacted a local TOD alternative plan from the above-specified provisions. The bill would require the plan to maintain at least the same total increase in feasible zoned capacity, in terms of both total units and residential floor area, as provided by these provisions across all TOD zones, as defined. The bill would require a local government, except as provided, to submit the draft plan to the department and would require the department to assess the plan and recommend changes to remove unnecessary constraints on housing.

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would authorize the regional council of governments or metropolitan planning organization to create a map of designated TOD stops and zones, which would have a rebuttable presumption of validity. The bill would authorize a local government to enact an ordinance to make its zoning code consistent with these provisions, as provided. The bill would require the local government to submit a copy of this

ordinance to the department within 60 days of enactment and would require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(2) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly

separate project from the project described in these provisions and shall not be exempt from CEQA.

(3) This bill would provide that the provisions of this bill are severable.

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.1.5 (commencing with Section
2 65912.155) is added to Division 1 of Title 7 of the Government
3 Code, to read:

4
5 CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT
6

7 65912.155. The Legislature finds and declares all of the
8 following:

9 (a) California faces a housing shortage both acute and chronic,
10 particularly in areas with access to robust public transit
11 infrastructure.

12 (b) Building more homes near transit access reduces housing
13 and transportation costs for California families, and promotes
14 environmental sustainability, economic growth, and reduced traffic
15 congestion.

16 (c) Public transit systems require sustainable funding to provide
17 reliable service, especially in areas experiencing increased density
18 and ridership. The state does not invest in public transit service to
19 the same degree as it does in roads, and the state funds a smaller
20 proportion of the state's major transit agencies' operations costs
21 than other states with comparable systems. Transit systems in other
22 countries derive significant revenue from transit-oriented
23 development at and near their stations.

1 65912.156. For purposes of this chapter, the following
2 definitions apply:

3 (a) “Adjacent” means sharing a property line with a transit stop,
4 including any parcels that serve a parking or circulation purpose
5 related to the stop.

6 (b) “Commuter rail” means a rail transit service not meeting
7 the standards for heavy rail or light rail, excluding California
8 High-Speed Rail and Amtrak Long Distance Service.

9 (c) “Department” means the Department of Housing and
10 Community Development.

11 (d) “Frequent commuter rail” means a commuter rail service
12 with a total of at least 24 daily trains per weekday across both
13 directions and not meeting the standard for very high or
14 high-frequency commuter rail at any point in the past three years.

15 (e) “Heavy rail transit” means an electric railway with the
16 capacity for a heavy volume of traffic using high-speed and rapid
17 acceleration passenger rail cars operating singly or in multicar
18 trains on fixed rails, separate rights-of-way from which all other
19 vehicular and foot traffic are excluded, and high platform loading.

20 (f) “High-frequency commuter rail” means a commuter rail
21 service operating a total of at least 48 trains per day across both
22 directions at any point in the past three years.

23 (g) “High-resource area” means a highest resource or
24 high-resource neighborhood opportunity area, as used in the
25 opportunity area maps published annually by the California Tax
26 Credit Allocation Committee and the department.

27 (h) “Housing development project” has the same meaning as
28 defined in Section 65589.5.

29 (i) “Light rail transit” includes streetcar, trolley, and tramway
30 service.

31 (j) “Net habitable square footage” means the finished and heated
32 floor area fully enclosed by the inside surface of walls, windows,
33 doors, and partitions, and having a headroom of at least six and
34 one-half feet, including working, living, eating, cooking, sleeping,
35 stair, hall, service, and storage areas, but excluding garages,
36 carports, parking spaces, cellars, half-stories, and unfinished attics
37 and basements.

38 (k) “Rail transit” has the same meaning as defined in Section
39 99602 of the Public Utilities Code.

1 (l) “Residential floor area ratio” means the ratio of net habitable
2 square footage dedicated to residential use to the area of the lot.

3 (m) “Tier 1 transit-oriented development stop” means a
4 transit-oriented development stop within an urban transit county
5 served by heavy rail transit or very high frequency commuter rail.

6 (n) “Tier 2 transit-oriented development stop” means a
7 transit-oriented development stop within an urban transit county,
8 excluding a Tier 1 transit-oriented development stop, served by
9 light rail transit, by high-frequency commuter rail, or by bus service
10 meeting the standards of paragraph (1) of subdivision (a) of Section
11 21060.2 of the Public Resources Code.

12 (o) “Tier 3 transit-oriented development stop” means a
13 transit-oriented development stop within an urban transit county,
14 excluding a Tier 1 or Tier 2 transit-oriented development stop,
15 served by frequent commuter rail service or by ferry service; or
16 any transit-oriented development stop not within an urban transit
17 county; or any major transit stop otherwise so designated by the
18 applicable authority.

19 (p) “Transit-oriented development stop” means a major transit
20 stop, as defined by Section 21155 of the Public Resources Code,
21 served by heavy rail transit, very high frequency commuter rail,
22 high frequency commuter rail, light rail transit, bus service meeting
23 the standards of paragraph (1) of subdivision (a) of Section 21060.2
24 of the Public Resources Code, frequent commuter rail service, or
25 ferry service, or otherwise so designated by the applicable
26 authority.

27 (q) “Urban transit county” means a county with more than 15
28 rail stations.

29 (r) “Very high frequency commuter rail” means a commuter
30 rail service with a total of at least 72 trains per day across both
31 directions at any point in the past three years.

32 65912.157. (a) A housing development project within one-half
33 or one-quarter mile of a transit-oriented development stop shall
34 be an allowed use on any site zoned for residential, mixed, or
35 commercial development, if the development complies with the
36 applicable of all of the following requirements:

37 (1) For a residential development within one-quarter mile of a
38 Tier 1 transit-oriented development stop, all of the following apply:

39 (A) A development may be built up to 75 feet high, or up to the
40 local height limit, whichever is greater.

1 (B) A local government shall not impose any maximum density
2 of less than 120 dwelling units per acre. The development
3 proponent may seek a further increased density in accordance with
4 applicable density bonus law.

5 (C) A local government shall not enforce any other local
6 development standard or combination of standards that would
7 prevent achieving a residential floor area ratio of up to 3.5.

8 (D) A development that otherwise meets the eligibility
9 requirements of Section 65915, including, but not limited to,
10 affordability requirements, shall be eligible for three additional
11 concessions pursuant to Section 65915.

12 (2) For a residential development further than one-quarter mile
13 but within one-half mile of a Tier 1 transit-oriented development
14 stop, all of the following apply:

15 (A) A development may be built up to 65 feet high, or up to the
16 local height limit, whichever is greater.

17 (B) A local government shall not impose any maximum density
18 standard of less than 100 dwelling units per acre. The development
19 proponent may seek a further increased density in accordance with
20 applicable density bonus law.

21 (C) A local government shall not enforce any other local
22 development standard or combination of standards that would
23 prevent achieving a residential floor area ratio of up to 3.

24 (D) A development that otherwise meets the eligibility
25 requirements of Section 65915, including, but not limited to,
26 affordability requirements, shall be eligible for two additional
27 concessions pursuant to Section 65915.

28 (3) For a residential development within one-quarter mile of a
29 Tier 2 transit-oriented development stop, all of the following apply:

30 (A) A development may be built up to 65 feet high, or up to the
31 local height limit, whichever is greater.

32 (B) A local government shall not impose any maximum density
33 standard of less than 100 dwelling units per acre. The development
34 proponent may seek a further increased density in accordance with
35 applicable density bonus law.

36 (C) A local government shall not enforce any other local
37 development standard or combination of standards that would
38 prevent achieving a residential floor area ratio of up to 3.

39 (D) A development that otherwise meets the eligibility
40 requirements of Section 65915, including, but not limited to,

1 affordability requirements, shall be eligible for two additional
2 concessions pursuant to Section 65915.

3 (4) For a residential development further than one-quarter mile
4 but within one-half mile of a Tier 2 transit-oriented development
5 stop, all of the following apply:

6 (A) A development may be built up to 55 feet high, or up to the
7 local height limit, whichever is greater.

8 (B) A local government shall not impose any maximum density
9 standard of less than 80 dwelling units per acre. The development
10 proponent may seek a further increased density in accordance with
11 applicable density bonus law.

12 (C) A local government shall not enforce any other local
13 development standard or combination of standards that would
14 prevent achieving a residential floor area ratio of up to 2.5.

15 (D) A development that otherwise meets the eligibility
16 requirements of Section 65915, including, but not limited to,
17 affordability requirements, shall be eligible for one additional
18 concession pursuant to Section 65915.

19 (5) For a residential development within one-quarter mile of a
20 Tier 3 transit-oriented development stop, all of the following apply:

21 (A) A development may be built up to 55 feet high, or up to the
22 local height limit, whichever is greater.

23 (B) A local government shall not impose any maximum density
24 standard of less than 80 dwelling units per acre. The development
25 proponent may seek a further increased density in accordance with
26 applicable density bonus law.

27 (C) A local government shall not enforce any other local
28 development standard or combination of standards that would
29 prevent achieving a residential floor area ratio of up to 2.5.

30 (D) A development that otherwise meets the eligibility
31 requirements of Section 65915, including, but not limited to,
32 affordability requirements, shall be eligible for one additional
33 concession pursuant to Section 65915.

34 (6) For a residential development further than one-quarter mile
35 but within one-half mile of a Tier 3 transit-oriented development
36 ~~stop within an urban transit county~~, stop, all of the following apply:

37 (A) A development *within an urban transit county* may be built
38 up to 45 feet high, or up to the local height limit, whichever is
39 greater. *A development not within an urban transit county may be*
40 *built up to the local height limit.*

1 (B) A local government shall not impose any maximum density
2 standard of less than 60 dwelling units per acre. The development
3 proponent may seek a further increased density in accordance with
4 applicable density bonus law.

5 (C) A local government shall not enforce any other local
6 development standard or combination of standards that would
7 prevent achieving a residential floor area ratio of up to 2.

8 (b) A local government may still enact and enforce standards,
9 including an inclusionary zoning requirement that applies generally
10 within the jurisdiction, that do not, alone or in concert, prevent
11 achieving the applicable development standards of subdivision
12 (a).

13 (c) If a development proposes a height under this section in
14 excess of the local height limit, then a local government shall not
15 be required to grant a waiver, incentive, or concession pursuant to
16 Section 65915 for additional height beyond that specified in this
17 section, except as provided in subparagraph (D) of paragraph (2)
18 of subdivision (d) of Section 65915.

19 (d) Notwithstanding any other law, a housing development
20 project that meets any of the eligibility criteria under subdivision
21 (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3
22 transit-oriented development stop shall be eligible for an adjacency
23 intensifier to increase the height limit by an additional 20 feet, the
24 maximum density standard by an additional 40 dwelling units per
25 acre, and the residential floor area ratio by 1.

26 (e) A development proposed pursuant to this section shall
27 comply with the antidisplacement requirements of Section 66300.6.
28 This subdivision shall apply to any city or county.

29 (f) A development proposed pursuant to this section shall include
30 housing for lower income households in one of the following ways:

31 (1) If there is a local inclusionary zoning ordinance or affordable
32 housing fee, it shall comply with the requirements of that ordinance
33 or fee.

34 (2) (A) If there is no local inclusionary ordinance or affordable
35 housing fee, a development of more than 10 units shall meet the
36 requirements to qualify for a density bonus pursuant to subdivision
37 (b) of Section 65915 or a local ordinance.

38 (B) This paragraph shall not apply to any development of 10
39 units or less.

(g) For purposes of subdivision (j) of Section 65589.5, a proposed housing development project that is consistent with the applicable standards from this chapter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. This subdivision shall not require a ministerial approval process or modify the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

(h) A local government that denies a housing development project meeting the requirements of this section that is located in a high-resource area shall be presumed to be in violation of the Housing Accountability Act (Section 65589.5) and immediately liable for penalties pursuant to subparagraph (B) of paragraph (1) of subdivision (k) of Section 65589.5, unless the local government demonstrates, pursuant to the standards in subdivisions (j) and (o) of Section 65589.5, that it has a health, life, or safety reason for denying the project.

65912.158. (a) Notwithstanding any other provision of this chapter, a transit agency may adopt objective standards for both residential and commercial developments proposed to be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, if the land is within one-half mile of a transit-oriented development stop and the objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.

(b) The board of a transit agency may vote to designate a major transit stop served by the agency as a Tier 3 transit-oriented development stop for the purposes of this section.

65912.159. (a) A housing development project proposed pursuant to Section 65912.157 shall be eligible for streamlined ministerial approval pursuant to Section 65913.4 in accordance with all of the following:

(1) The proposed project shall be exempt from subparagraph (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of subparagraph (A) of paragraph (6) of, subdivision (a) of Section 65913.4.

(2) The proposed project shall comply with the affordability requirements in subclauses (I) to (III), inclusive, of clause (i) of subparagraph (B) of paragraph (4) of subdivision (a) of Section 65913.4.

1 (3) The proposed project shall comply with all other
2 requirements of Section 65913.4, including, but not limited to, the
3 prohibition against a site that is within a very high fire hazard
4 severity zone, pursuant to subparagraph (D) of paragraph (6) of
5 subdivision (a) of Section 65913.4.

6 (b) Any housing development proposed pursuant to Section
7 65912.157 not seeking streamlined approval under Section 65913.4
8 shall be reviewed according to the jurisdiction's development
9 review process and Section 65589.5, except that any local zoning
10 standard conflicting with the requirements of this chapter shall not
11 apply.

12 65912.160. (a) The department shall oversee compliance with
13 this chapter, including, but not limited to, promulgating standards
14 on how to account for capacity pursuant to this chapter in a city
15 or county's inventory of land suitable for residential development,
16 pursuant to Section 65583.2.

17 (b) The regional council of governments or metropolitan
18 planning organization may create a map of transit-oriented
19 development stops and zones designated under this chapter. This
20 map shall have a rebuttable presumption of validity for use by
21 project applicants and local governments.

22 (c) (1) A local government may enact an ordinance to make its
23 zoning code consistent with the provisions of this chapter, subject
24 to review by the department pursuant to paragraph (3).

25 (2) The ordinance described in paragraph (1) shall not be
26 considered a project under Division 13 (commencing with Section
27 21000) of the Public Resources Code.

28 (3) (A) A local government shall submit a copy of any
29 ordinance enacted pursuant to this section to the department within
30 60 days of enactment.

31 (B) Upon receipt of an ordinance pursuant to this paragraph,
32 the department shall review that ordinance and determine whether
33 it complies with this section. If the department determines that the
34 ordinance does not comply with this section, the department shall
35 notify the local government in writing and provide the local
36 government a reasonable time, not to exceed 30 days, to respond
37 before taking further action as authorized by this section.

38 (C) The local government shall consider any findings made by
39 the department pursuant to subparagraph (B) and shall do one of
40 the following:

1 (i) Amend the ordinance to comply with this section.

2 (ii) Enact the ordinance without changes. The local government
3 shall include findings in its resolution adopting the ordinance that
4 explain the reasons the local government believes that the
5 ordinance complies with this section despite the findings of the
6 department.

7 (D) If the local government does not amend its ordinance in
8 response to the department's findings or does not adopt a resolution
9 with findings explaining the reason the ordinance complies with
10 this section and addressing the department's findings, the
11 department shall notify the local government and may notify the
12 Attorney General that the local government is in violation of this
13 section.

14 65912.161. (a) A local government may enact a local
15 transit-oriented development alternative plan as an amendment to
16 the housing element and land use element of its general plan,
17 subject to review by the department.

18 (1) (A) A local transit-oriented development alternative plan
19 shall maintain at least the same total increase in feasible zoned
20 capacity, in terms of both total units and residential floor area, as
21 provided for in this chapter across all transit-oriented development
22 zones within the jurisdiction.

23 (i) The plan shall not reduce the capacity in any station area, in
24 total units or residential floor area, by more than 50 percent.

25 (ii) The plan shall not reduce the allowed density for any
26 individual site allowing residential use by more than 50 percent
27 below that permitted under this chapter.

28 (iii) A site's maximum feasible capacity counted toward the
29 plan shall be not more than 200 percent of the maximum density
30 established under this chapter.

31 (B) For the purposes of this paragraph, both of the following
32 definitions apply:

33 (i) "Feasible" means capable of being accomplished in a
34 successful manner within a reasonable period of time, taking into
35 account economic, environmental, social, and technological factors.

36 (ii) "Transit-oriented development zone" means the eligible
37 area around a qualifying transit-oriented development stop.

38 (2) A local transit-oriented development alternative plan may
39 designate any other major transit stop or stop along a high-quality
40 transit corridor that is not already identified as a transit-oriented

1 development stop as a Tier 3 transit-oriented development stop.
2 A local transit-oriented development plan consisting solely of
3 adding additional major transit stops as transit-oriented
4 development stops shall be exempt from the requirements of
5 paragraph (4).

6 (3) A local transit-oriented development alternative plan may
7 consist of an existing local transit-oriented zoning ordinance,
8 overlay zone, specific plan, or zoning incentive ordinance, provided
9 that it applies to all residential properties within the transit-oriented
10 development area and provides at least the same total feasible
11 capacity for units and floor area as Section 65912.157.

12 (4) Prior to enacting a local transit-oriented development
13 alternative plan, the local government shall submit the draft plan
14 to the department for review. The submission shall include any
15 amendments to the local zoning ordinances, any applicable
16 objective design standards that would apply to transit-oriented
17 developments, and assessments of the plan's impact on
18 development feasibility and fair housing. The department shall
19 assess whether the plan maintains at least an equal feasible
20 developable housing capacity as the baseline established under
21 this section as well as the plan's effects on fair housing relative to
22 the baseline established under this section, and shall recommend
23 changes to remove unnecessary constraints on housing from the
24 plan.

25 (b) Section 65912.157 shall not apply within a jurisdiction that
26 has a local transit-oriented alternative plan that has been approved
27 by the department as satisfying the requirements of this section in
28 effect. The department's approval pursuant to this subdivision
29 shall be valid through the jurisdiction's next amendment to the
30 housing element of its general plan.

31 65912.162. The Legislature finds and declares that the state
32 faces a housing crisis of availability and affordability, in large part
33 due to a severe shortage of housing, and solving the housing crisis
34 therefore requires a multifaceted, statewide approach, including,
35 but not limited to, encouraging an increase in the overall supply
36 of housing, encouraging the development of housing that is
37 affordable to households at all income levels, removing barriers
38 to housing production, expanding homeownership opportunities,
39 and expanding the availability of rental housing, and is a matter
40 of statewide concern and is not a municipal affair as that term is

1 used in Section 5 of Article XI of the California Constitution.
2 Therefore, this chapter applies to all cities, including charter cities.

3 SEC. 2. Section 21080.26.5 is added to the Public Resources
4 Code, to read:

5 21080.26.5. (a) For the purposes of this section, “public
6 project” means a project constructed by either a public agency or
7 private entity, that, upon the completion of the construction, will
8 be operated by a public agency.

9 (b) This division shall not apply to a public or private residential,
10 commercial, or mixed-use project that, at the time the project
11 application is filed, is located entirely or principally on land owned
12 by a public transit agency, or fully or partially encumbered by an
13 existing operating easement in favor of a public transit agency,
14 and that includes at least one of the following:

15 (1) A project component identified in paragraphs (1) to (5),
16 inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.

17 (2) A public project for passenger rail service facilities, other
18 than light rail service eligible under paragraph (5) of subdivision
19 (b) of Section 21080.25, including the construction,
20 reconfiguration, or rehabilitation of stations, terminals, rails,
21 platforms, or existing operations facilities, which will be
22 exclusively used by zero-emission or electric trains. The project
23 shall be located on land owned by a public transit agency, or land
24 fully or partially encumbered by an existing operating easement
25 in favor of a public transit agency, at the time the project
26 application is filed.

27 (3) An agreement between the project applicant and public
28 transit agency that owns the land or has the permanent operating
29 easement to finance transit capital infrastructure, transit
30 maintenance, or transit operations, including through a proposed
31 public financing district, community financing district, or tax
32 increment generated by the project.

33 (c) If the project described in paragraph (1) of subdivision (b)
34 is located on land fully or partially encumbered by an existing
35 operating easement in favor of a public transit agency at the time
36 the project application is filed, the transit agency, the grantor of
37 the easement, and all fee owners of the property encumbered by
38 the easement must sponsor or consent to the application. Nothing
39 in this section shall be interpreted to authorize a transit agency to
40 construct a project described in paragraph (1) of subdivision (b)

1 unless permitted by its operating easement or unless the easement
2 is terminated, in each case prior to the commencement of
3 construction.

4 (d) If a project described in subdivision (b) requires the
5 construction of new passenger rail storage and maintenance
6 facilities at a publicly or privately owned offsite location distinct
7 from the principal project site, then that project shall be considered
8 a wholly separate project from the project described in subdivision
9 (b) and shall not be exempt from this division. Any required
10 environmental review shall not affect or render invalid the
11 exemption provided in subdivision (b), regardless of whether the
12 project described in subdivision (b) cannot proceed unless the
13 offsite facilities are constructed.

14 SEC. 3. The provisions of this act are severable. If any
15 provision of this act or its application is held invalid, that invalidity
16 shall not affect other provisions or applications that can be given
17 effect without the invalid provision or application.

18 SEC. 4. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 a local government or school district has the authority to levy
21 service charges, fees, or assessments sufficient to pay for the
22 program or level of service mandated by this act, within the
23 meaning of Section 17556 of the Government Code.