

AMENDED IN SENATE AUGUST 17, 2018

AMENDED IN SENATE JULY 2, 2018

AMENDED IN ASSEMBLY APRIL 30, 2018

AMENDED IN ASSEMBLY APRIL 11, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2923

**Introduced by Assembly Members Chiu and Grayson
(Coauthors: Assembly Members Mullin, Bloom, and Ting)**

February 16, 2018

An act to add and repeal Sections 29010.1, 29010.6, 29010.7, 29010.8, 29010.9, ~~and 29010.10~~ 29010.10, 29010.11, and 29010.12 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2923, as amended, Chiu. San Francisco Bay Area Rapid Transit District: transit-oriented development.

(1) Existing law establishes the San Francisco Bay Area Rapid Transit District (BART) with various powers and duties and establishes a board of directors as the legislative body of the district. Existing law requires the board to determine all questions of district policy and what transit facilities should be acquired or constructed, and authorizes the board to establish zones within the district to undertake the acquisition or construction of any transit facilities.

This bill would require the board to adopt by ordinance new transit-oriented development (TOD) zoning standards *for each station* that establish minimum local zoning requirements for height, density, parking, and floor area ratio only, that apply to an eligible TOD project,

as defined. The bill would require that the adoption of, or amendments to, the TOD zoning standards comply with specified requirements and would require affected local jurisdictions to adopt a local zoning ordinance that conforms to the TOD zoning standards and is operative within 2 years of the date that the TOD zoning standards are adopted by the ~~board~~. *board for a station, or by July 1, 2022, if the board has not adopted TOD zoning standards for the station.* The bill would provide that BART's approval of TOD zoning standards is subject to ~~the~~ California Environmental Quality Act ~~(CEQA review)~~ (CEQA) review and would designate BART as the lead agency for CEQA review, as specified.

This bill would, where local zoning remains inconsistent with the TOD zoning standards after ~~this 2-year period~~, *July 1, 2022*, require the TOD zoning standards to become the local zoning for any BART-owned ~~land~~ *parcels that are at least 75% within ½ mile of any existing or planned BART station entrance within the BART district in areas represented on the board, as specified.* The bill would require BART to ensure any otherwise applicable local design ~~guidelines standards~~ are included in a development agreement as general guidance to the TOD developer, and would require a TOD developer to adhere to any applicable local design ~~guidelines standards~~ insofar as those ~~guidelines standards~~ do not prohibit the minimum height, minimum density, *minimum floor area ratio*, and maximum parking allowances required by the TOD zoning standards. The bill would require that, where housing is proposed as part of a TOD project, a minimum of 20% of the residential housing units ~~is are~~ affordable housing, as specified, and that the *construction of the* TOD project comply with specified labor requirements. The bill would provide that when BART enters into an exclusive negotiating agreement with a developer for development of an eligible TOD project, that agreement shall confer a vested right to proceed with development, as specified. The bill would provide that its provisions are repealed on January 1, 2029, except as otherwise specified. The bill would enact other related provisions and exceptions.

By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The bill would include legislative findings and declarations in support of the act being a matter of statewide concern.

(3) 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.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state’s economic health is significantly tied to the
4 regional economic health of the San Francisco Bay Area. The
5 growth and success of the Bay Area’s economy is threatened by
6 several challenges, including inadequate and unaffordable housing
7 and excessive and increasing roadway congestion. In the
8 state-mandated sustainable communities strategy for the Bay Area,
9 locating affordable and market-rate housing near high-capacity
10 transit is a primary tool with which to address these challenges
11 and will keep the Bay Area on track to meet its state-mandated
12 greenhouse gas emissions reduction targets.

13 (b) The San Francisco Bay Area Rapid Transit District (~~BART~~)
14 (*district*) is a product of the Legislature, drawing its power from
15 the San Francisco Bay Area Rapid Transit District Act (Part 2
16 commencing with Section 28500) of Division 10 of the Public
17 Utilities Code), which acknowledges the ~~state-wide~~ *statewide*
18 interest in a well-functioning, cost-effective, and fiscally
19 sustainable ~~BART~~ *district* network.

20 (c) Recognizing the above ~~state-wide~~ *statewide* interest, the
21 state has granted ~~BART~~ *the district* land use and permitting
22 authority to build transportation facilities such as parking
23 structures, stations, and maintenance facilities. Since that authority
24 was granted, it has only become clearer that making those facilities
25 financially and environmentally sustainable requires that ~~BART~~
26 ~~has~~ *the district* have some level of authority over land use for
27 ~~housing~~ *transit-oriented development*.

1 (d) Transportation services are uniquely tied to land use patterns,
 2 as recognized by the Legislature’s enactment of Chapter 728 of
 3 the Statutes of 2008, which integrated the development of
 4 sustainable communities strategies into regional transportation
 5 plans. Furthermore, ~~BART the district~~ itself is unique as a transit
 6 agency in that it is governed by an elected ~~board~~, *board of*
 7 *directors*, granting the people of the San Francisco Bay Area a
 8 greater measure of input on ~~BART’s the district’s~~ decisions than
 9 the constituents of other agencies have on their agencies. *The*
 10 *district is also unique because of the number of daily rail*
 11 *passengers it serves.* Because of ~~BART’s the district’s~~ unique
 12 status, the Legislature, pursuant to this act, intends to solely grant
 13 ~~BART the district~~ an exception to the ~~fundamental~~ principle that
 14 cities and counties must be reserved land use authority by granting
 15 ~~BART the district~~ a measure of limited land use authority over the
 16 parcels it ~~owns~~. *owns in the immediate vicinity of its stations.*

17 (e) The state has invested significantly in ~~BART’s the district’s~~
 18 infrastructure, which is estimated to be worth over twenty billion
 19 dollars (\$20,000,000,000), and continues to invest tens of millions
 20 of dollars more for ~~BART’s the district’s~~ operations every year.
 21 The state has an interest in leveraging the maximum benefits from
 22 this investment, including greenhouse gas emissions reductions,
 23 congestion reduction, air quality improvement, mobility
 24 enhancements, increased transit ridership, and increased affordable
 25 housing.

26 (f) For the above reasons, the authorizations in this act, which
 27 seek to deliver affordable and market-rate housing in close
 28 proximity to high-capacity transit, constitute an urgent matter of
 29 statewide concern.

30 SEC. 2. Section 29010.1 is added to the Public Utilities Code,
 31 to read:

32 29010.1. (a) For ~~purpose~~ *purposes* of this article, the following
 33 definitions shall apply:

34 (1) ~~“Baseline TOD zoning standards” means the minimum~~
 35 ~~allowable density limits, the minimum allowable height limits, the~~
 36 ~~minimum floor area ratio, and the highest allowable parking limits,~~
 37 ~~to which the board is required to adhere to in adopting TOD zoning~~
 38 ~~standards pursuant to Section 29010.6.~~

1 (1) “BART TOD place type” means the place type described in
2 Table 1 and Figure 1 of the BART Transit-Oriented Development
3 Guidelines (2017), as updated by the district.

4 (2) “Eligible TOD project” means a TOD project that meets all
5 of the following requirements:

6 (A) The parcel *or parcels* on which the TOD project would be
7 located is an infill site, as defined in Section 21061.3 of the Public
8 Resources Code.

9 (B) The parcel *or parcels* on which the TOD project would be
10 located was not acquired through eminent domain on or after July
11 1, ~~2019~~: 2018.

12 (C) The parcel *or parcels* on which the TOD project would be
13 located forms a contiguous area of at least 0.25 ~~acres and is acres,~~
14 *has at least 75 percent of its area* located ~~both~~ within one-half
15 mile of an existing or planned district station ~~entrance~~ *entrance*,
16 and *is located* within an area represented on the board.

17 (D) The parcel *or parcels* on which the TOD project would be
18 located ~~has been~~ *is* owned by the district ~~since on or before July~~
19 ~~1, 2020~~: *district*.

20 (E) For a TOD project relating to a district station that existed
21 on July 1, 2018, ~~both of the following requirements shall apply:~~

22 (i) ~~The district’s~~ *the* TOD zoning standards *and Section 29010.7*
23 shall apply only to a parcel that is owned by the district on that
24 ~~date and to a parcel both that the district acquires after that date~~
25 ~~and that meets both of the following requirements:~~ *date*.

26 (i) ~~The parcel is contiguous, meaning not separated by a state~~
27 ~~controlled road, to an existing district-owned parcel within one-half~~
28 ~~mile of a station entrance.~~

29 (ii) ~~The combined area of the parcel is no greater than 10 percent~~
30 ~~of the land area that the district owns within one-half mile of a~~
31 ~~station entrance.~~

32 (ii) ~~A development on land purchased by the district after July~~
33 ~~1, 2018, shall be integrated into a TOD project, the majority of~~
34 ~~which shall be on land owned by the district on or before that date,~~
35 ~~and shall not be a stand-alone TOD project.~~

36 (F) For a *TOD project relating to a* planned district station, ~~it~~
37 ~~the district station~~ has been approved by an ordinance or resolution
38 adopted by the legislative body of ~~each city or county~~ *the local*
39 *jurisdiction with local land use zoning jurisdiction over the area*
40 in which the station is located.

1 (3) “Floor area ratio” means the ~~gross floor area of an eligible~~
 2 ~~TOD project divided by the land area of the parcel or parcels on~~
 3 ~~which the eligible TOD project is built, where the land area~~
 4 ~~excludes land dedicated to surface parking and circulation. ratio~~
 5 *of gross building area of the development, excluding structured*
 6 *parking areas, proposed for the project, divided by the total area*
 7 *of the parcel or parcels used by the project, where “gross building*
 8 *area” means the sum of all finished areas of all floors of a building*
 9 *included within the outside faces of its exterior walls.*

10 (4) “Local jurisdiction” means a city, including a charter city,
 11 a county, or a city and county.

12 (5) “Planned district station” means a station that has
 13 completed the California Environmental Quality Act review and
 14 for which construction is more than 75 percent funded.

15 (6) “Station entrance” means the entry point into an enclosed
 16 station structure, or, where that point is not clear or does not exist,
 17 the station fare gates.

18 ~~(4)~~

19 (7) “TOD” means transit-oriented development.

20 ~~(5)~~

21 (8) “TOD project” means any residential or commercial
 22 development ~~project project, comprised of one or more buildings,~~
 23 wholly or partially on district land with 50 percent of the floor area
 24 of the project dedicated to residential ~~units, uses,~~ unless a locally
 25 adopted specific plan provides for a different percentage, or other
 26 metric, of residential ~~units uses~~ on district-owned parcels. *If a*
 27 *locally adopted specific plan establishes a lower minimum*
 28 *residential use requirement for district-owned land, the specific*
 29 *plan metric shall serve as the minimum residential requirement.*

30 ~~(6)~~

31 (9) “TOD project area” means the parcel or parcels of land on
 32 which a TOD project is situated.

33 ~~(b) For purposes of this article, “local jurisdiction” includes a~~
 34 ~~charter city.~~

35 ~~(e)~~

36 (b) This section shall remain in effect only until January 1, 2029,
 37 and as of that date is repealed.

38 SEC. 3. Section 29010.6 is added to the Public Utilities Code,
 39 to read:

1 29010.6. (a) (1) Notwithstanding any other law, the San
2 Francisco Bay Area Rapid Transit District (BART) board of
3 directors shall, consistent with Section 28793, adopt by ordinance
4 ~~transit-oriented development (TOD)~~ *TOD* zoning standards for
5 each station that establish minimum local zoning requirements for
6 height, density, parking, and floor area ratio only, that apply to an
7 eligible TOD project.

8 (2) ~~Zoning standards published in Table 1 and Figure 1 of BART~~
9 ~~TOD Guidelines (2017) shall serve as the baseline TOD zoning~~
10 ~~standards. Approved~~ *Adopted* TOD zoning standards shall establish
11 *establish, for each district station, the lowest permissible height*
12 ~~limits, lowest permissible density limits, minimum allowable floor~~
13 ~~area ratio, limit for height, density, and floor area ratio, and the~~
14 highest permissible parking minimums and ~~maximums, except~~
15 ~~that the minimum allowable floor-area-ratio limit for the TOD~~
16 ~~zoning standards shall be calculated as described in clause (ii) of~~
17 ~~subparagraph (B) of paragraph (4):~~ *maximums. The zoning*
18 *standards published in Table 1 and Figure 1 of the BART TOD*
19 *Guidelines (2017) shall serve as the minimum allowable density*
20 *and height limits, and the highest allowable parking limits to which*
21 *the board is required to adhere in adopting TOD zoning standards.*
22 *The board shall not establish floor-area-ratio limits in the TOD*
23 *zoning standards for each station type less than the number in the*
24 *column titled “residential target height” multiplied by 0.6.*

25 (3) ~~In adopting the TOD zoning standards, the district shall~~
26 ~~establish and include the lowest permissible floor-area-ratio limits~~
27 ~~for each TOD place type.~~

28 (3) *The TOD zoning standards adopted by the board for each*
29 *station shall not assign a lowest permissible height limit taller*
30 *than the larger of the following two heights:*

31 (A) *The “highest approved height” as defined in subparagraph*
32 *(A) of paragraph (1) of subdivision (a) of Section 29010.7.*

33 (B) *One hundred fifty percent of the target height in the zoning*
34 *standards published in Figure 1 of the BART TOD Guidelines*
35 *(2017).*

36 (4) (A) TOD zoning standards shall be adopted by July 1, 2020,
37 and may be amended thereafter pursuant to this section.

38 (B) (i) If the board, for any reason, ~~fails to~~ *does not* adopt new
39 standards for a station by July 1, 2020, Table 1 of BART TOD
40 Guidelines (2017) shall serve as the TOD zoning standards, with

1 the Transit Oriented Place Types identified in Figure 1 of the
2 BART TOD Guidelines (2017), until that time when the board
3 adopts new TOD zoning ~~standards~~; *standards for that station.*

4 (ii) In the case that Table 1 of the BART TOD Guidelines (2017)
5 serves as the TOD zoning ~~standards~~; *standards for any stations,*
6 the minimum allowable floor-area-ratio limit shall be calculated
7 for each station type by multiplying the number in the column
8 titled “residential target height” by 0.6.

9 *(5) The district is not required to establish TOD zoning*
10 *standards for a station where, according to the district’s*
11 *assessment, it would be impractical to develop an eligible TOD*
12 *project greater than one-half acre.*

13 ~~(5)~~

14 (6) The TOD zoning standards *adopted by the board for each*
15 *station* shall reflect the diversity of the different communities
16 served by the district’s stations.

17 ~~(6) The board shall not establish floor-area-ratio limits in the~~
18 ~~TOD zoning standards less than the values described in clause (ii)~~
19 ~~of subparagraph (B) of paragraph (4).~~

20 (b) The adoption of, and amendments to, the TOD zoning
21 standards shall comply with all of the following:

22 (1) The district shall hold a public hearing to receive public
23 comment on the proposed TOD zoning standards or proposed
24 changes to the TOD zoning standards. The district shall conduct
25 direct outreach *to relevant local jurisdictions and* to communities
26 ~~of concern~~; *concern around each station. Before or during the*
27 *scoping meeting, the district shall meet with each jurisdiction in*
28 *which the station is located, as well as any relevant infrastructure*
29 *agencies. The consultation required pursuant to this section shall*
30 *include all of the following:*

31 (A) *A review of the housing needs of the jurisdiction.*

32 (B) *A review of the TOD approved and built in the past year in*
33 *the jurisdiction.*

34 (C) *A review of any TOD projects proposed by the district in*
35 *the jurisdiction for the past year.*

36 (D) *A discussion of any obstacles to development of any project*
37 *proposed by the district.*

38 (2) Not less than 30 days before a public hearing of the board
39 to consider the TOD zoning standards, the district shall provide
40 public notice and make the draft standards available to the public.

1 (3) The board shall adopt or reject any proposed TOD zoning
2 standards at a publicly noticed meeting of the board not less than
3 30 days following the original public hearing.

4 (c) Before or at the same time as adopting the TOD zoning
5 standards, the board shall approve travel demand management
6 requirements for TOD projects on district-owned real property,
7 which shall be consistent with district station-~~access~~ *access, district*
8 *sustainability*, and district TOD policy goals.

9 (d) (1) ~~(A) Where local zoning is inconsistent with the TOD~~
10 ~~zoning standards, standards for a station, the local jurisdiction~~
11 ~~shall adopt a local zoning ordinance that conforms to the TOD~~
12 ~~zoning standards and is operative within two years of the date that~~
13 ~~the TOD zoning standards were are adopted by the board: board~~
14 ~~for a station, or by July 1, 2022, if the board has not adopted TOD~~
15 ~~zoning standards for the station.~~

16 ~~(B) The local zoning ordinance shall conform to the TOD zoning~~
17 ~~standards without the application of any bonuses or waivers~~
18 ~~allowable under any state or local density bonus provisions.~~

19 (2) The district shall make a finding as to whether the local
20 zoning ordinance conforms to the TOD zoning standards. Local
21 zoning shall remain in place unless the district determines that it
22 does not conform to the TOD zoning standards. If, according to
23 the district's finding, the local zoning ordinance does not conform
24 to the TOD zoning standards after ~~the two-year period specified~~
25 ~~in subparagraph (A) of paragraph (1), July 1, 2022, the TOD zoning~~
26 ~~standards shall become the local zoning standards for any~~
27 ~~district-owned land parcels that are at least 75 percent within~~
28 ~~one-half mile of any existing or planned district station entrance~~
29 ~~in areas represented on the board. A For each station, a local~~
30 ~~jurisdiction may update zoning for district-owned land to comply~~
31 ~~with TOD zoning standards until such the time that the district~~
32 ~~enters into an exclusive negotiating agreement with a developer~~
33 ~~for an eligible TOD project.~~

34 (3) If a local jurisdiction is in the process of adopting zoning
35 consistent with the TOD zoning standards, including if the local
36 jurisdiction is in the midst of a CEQA review *review under the*
37 *California Environmental Quality Act (CEQA) (Division 13*
38 *(commencing with Section 21000) of the Public Resources Code)*
39 of proposed zoning, or engaged in a lawsuit related to zoning
40 adoption, but has not completed the adoption of those zoning

1 standards by the time the district enters into an exclusive
 2 negotiating agreement with a developer for the development of an
 3 eligible TOD project, and if it is clear what the preferred zoning
 4 standards are, the district shall, to the extent it has the authority,
 5 follow the spirit of *take into consideration* the local jurisdiction's
 6 proposed zoning standards in negotiating the district's development
 7 agreement with any potential eligible TOD project developer.

8 ~~(4) By majority vote, the board may, for any specific station,~~
 9 ~~exempt any local jurisdiction~~*In cases where a local jurisdiction's*
 10 *zoning for district-owned land within one-half mile of a district*
 11 *station, approved as of July 1, 2018, is within 10 percent of the*
 12 *height and floor-area-ratio standards established in Table 1 and*
 13 *Figure 1 of the BART TOD Guidelines (2017) and values*
 14 *calculated by clause (ii) of subparagraph (B) of paragraph (4) of*
 15 *subdivision (a) the local jurisdiction shall be exempt from the*
 16 *application of the TOD zoning standards at any time up to the*
 17 *board's approval of TOD zoning standards in cases where the local*
 18 *zoning for that local jurisdiction was approved as of July 1, 2018,*
 19 *and is within 10 percent of the height and floor-area-ratio standards*
 20 *established in Table 1 and Figure 1 of the BART TOD Guidelines*
 21 *(2017): for that station. In this case, the parking requirements shall*
 22 *be set as the parking minimum and maximum established in Table*
 23 *1 and Figure 1 of the BART TOD Guidelines (2017).*

24 ~~(5) If district ridership is below 200,000 daily weekday riders~~
 25 ~~on average for at least three consecutive calendar years, and that~~
 26 ~~level of ridership is not related to a natural disaster, the~~
 27 ~~requirements of this subdivision shall be inoperative, until district~~
 28 ~~ridership rises above 200,000 daily weekday riders on average for~~
 29 ~~a single calendar year.~~

30 (e) (1) The district's approval of TOD zoning standards shall
 31 be subject to the California Environmental Quality Act (CEQA
 32 review) (Division 13 (commencing with Section 21000) of the
 33 Public Resources Code). *CEQA review.* The district shall serve as
 34 the lead agency for CEQA review for the TOD zoning standards.

35 (2) Any subsequent CEQA review of rezoning to conform with
 36 TOD zoning standards, and of eligible TOD projects proposed on
 37 district-owned land, shall incorporate the environmental review
 38 document certified for the TOD zoning standards consistent with
 39 Section 21094 of the Public Resources Code. A public agency
 40 shall not prepare an environmental impact report or mitigated

1 negative declaration for a project involving rezoning pursuant to
2 paragraph (2) of subdivision (d) to implement TOD zoning
3 standards or for a TOD project subsequent to BART's the district's
4 certification of an environmental review document for approval
5 of TOD zoning standards unless the public agency finds, based on
6 substantial evidence, that the rezoning or TOD project creates a
7 significant effect on the environment that was not analyzed,
8 mitigated, or avoided in the prior environmental review document.
9 analyzed in the prior environmental review document, and
10 mitigated or avoided.

11 (f) In the event that the TOD zoning standards, objective
12 planning standards, general plan, or design review standards are
13 mutually inconsistent, the TOD zoning standards shall be the
14 controlling standards. To the extent that the zoning standards do
15 not resolve inconsistencies, the general plan shall be the controlling
16 standard.

17 (g) The district shall establish, and amend as necessary, a
18 parking replacement policy, consistent with the district's practice
19 at auto-dependent stations and the district's station access policy,
20 with specific provisions to ensure that, after the construction of
21 the eligible TOD project, ~~auto-oriented~~ auto-dependent stations
22 are still accessible by private automobile. The policy shall
23 specifically consider the parking replacement needs for
24 ~~auto-oriented~~ auto-dependent end-of-the-line stations.

25 (h) For any station where district commuter parking is reduced
26 as a result of a TOD project on land where TOD zoning standards
27 apply, the district shall develop and fund an access plan that
28 maintains station access for at least the number of customers
29 affected by the reduced number of commuter parking spaces, which
30 shall include specific consideration for customers who live further
31 than one-half mile from the station.

32 (i) Local jurisdictions shall not do either of the following:

33 (1) Require that parking, as part of an eligible TOD project, be
34 associated with any specific use, residential unit, business, or
35 portion of the TOD project.

36 (2) Prohibit parking from being sold, rented, or otherwise
37 assigned separately from other parts of the eligible TOD project.

38 (j) Zoning in effect as a result of this section shall be considered
39 the same as locally approved zoning for all purposes, including
40 the density bonus law and the Housing Accountability Act.

1 ~~(h)~~
2 (k) This section shall remain in effect only until January 1, 2029,
3 and as of that date is repealed.

4 SEC. 4. Section 29010.7 is added to the Public Utilities Code,
5 to read:

6 29010.7. (a) (1) This section shall only apply to an eligible
7 TOD project that meets both of the following requirements:

8 (A) ~~Is Has a height less than or equal to one-story story, or 15~~
9 ~~feet, above the highest local zoning restriction approved height~~
10 ~~for mixed use or residential use within a half-mile of a district~~
11 ~~station as of July 1, 2018; parcel or entrance on July 1, 2018,~~
12 ~~where "highest approved height" means the tallest height,~~
13 ~~including heights that require conditional approval, allowable~~
14 ~~pursuant to zoning, including the municipal code and any specific~~
15 ~~or area plan that covers the district station property.~~

16 (B) ~~Has a floor area ratio of 2.5 or less; equal to or less than~~
17 ~~0.6 times the number of stories that satisfies subparagraph (A).~~

18 (2) (A) ~~If local zoning standards are more permissive allow for~~
19 ~~taller heights or larger floor area ratios than these requirements;~~
20 ~~the requirements in paragraph (1), this section shall apply to any~~
21 ~~project that meets the requirements of the local zoning standards.~~

22 (B) ~~Subparagraph (A) shall not apply to local zoning standards~~
23 ~~adopted for the purpose of complying with paragraph (1) of~~
24 ~~subdivision (d) of Section 29010.6 or to BART TOD standards that~~
25 ~~have become the local zoning pursuant to paragraph (2) of~~
26 ~~subdivision (d) of Section 29010.6.~~

27 (3) This section shall not apply to a project where the local
28 jurisdiction finds that the project will cause a specific adverse
29 impact to public health and safety as described in paragraph (2)
30 of subdivision (d) of Section 65589.5 of the ~~Government Code.~~
31 ~~Code, and there is no feasible method to satisfactorily mitigate or~~
32 ~~avoid the adverse impact.~~

33 (b) (1) A developer in an exclusive negotiating agreement with
34 the district may submit an application for a development that is
35 subject to the streamlined, ministerial approval process not subject
36 to a conditional use permit as specified in Section 65913.4 of the
37 Government Code.

38 (2) An eligible TOD project that meets the requirements in
39 subdivision (a) shall not be required to comply with the objective
40 planning standards in subdivision (a) of Section 65913.4 of the

1 Government Code to be eligible for ~~streamlining~~, *the streamlined,*
2 *ministerial approval process*, except as otherwise provided in this
3 article.

4 (c) *A developer of an eligible TOD project may apply for density*
5 *bonus pursuant to Section 65915 of the Government Code. For*
6 *purposes of an application submitted pursuant to subdivision (b),*
7 *“maximum allowable gross residential density,” as that term is*
8 *used in Section 65915 of the Government Code, includes the*
9 *highest approved height, as defined in subparagraph (A) of*
10 *paragraph (1) of subdivision (a), and the floor area ratio*
11 *requirement described in subparagraph (B) of paragraph (1) of*
12 *subdivision (a). A project that meets the requirements of paragraph*
13 *(1) of subdivision (a) before the addition of any height increases,*
14 *density increases, waivers, or concessions awarded through a*
15 *density bonus shall remain eligible for streamlining under this*
16 *section after the addition of a density bonus.*

17 (e)

18 (d) (1) The district shall ensure any otherwise applicable local
19 ~~design guidelines standards~~, *insofar as those standards do not*
20 *prohibit the minimum height, minimum density, minimum floor*
21 *area ratio, and maximum parking allowances required by the TOD*
22 *zoning standards, are included in a development agreement as*
23 *general guidance to the TOD developer.*

24 (2) A TOD developer shall adhere to any applicable local design
25 ~~guidelines standards~~ *insofar as those guidelines standards do not*
26 *prohibit the minimum height, minimum density, minimum floor*
27 *area ratio, and maximum parking allowances required by the TOD*
28 *zoning standards.*

29 (d) ~~Local jurisdictions may not do any of the following:~~

30 (1) ~~Require that parking, as part of an eligible TOD project, be~~
31 ~~associated with any specific use, residential unit, business, or~~
32 ~~portion of the TOD project.~~

33 (2) ~~Prohibit parking from being sold, rented, or otherwise~~
34 ~~assigned separately from other parts of the eligible TOD project.~~

35 (e)

36 (e) This section shall remain in effect only until January 1, 2029,
37 and as of that date is repealed.

38 SEC. 5. Section 29010.8 is added to the Public Utilities Code,
39 to read:

1 29010.8. (a) The district shall do all of the following to avoid
2 the loss of affordable housing units and to prevent the direct
3 displacement of tenants:

4 ~~(1) Require that parcels that currently have residential uses, or~~
5 ~~within the past five years have had residential uses that have been~~
6 ~~vacated or demolished, that are or were subject to a recorded~~
7 ~~covenant, ordinance, or law that restricts rents to levels affordable~~
8 ~~to persons and families of low or very low income, or subject to~~
9 ~~any other form of rent or price control through a public entity's~~
10 ~~valid exercise of its police power, shall be subject to a policy that~~
11 ~~requires the replacement of all those affordable housing units to~~
12 ~~the same or lower income level as a condition of any development~~
13 ~~on the parcel within the TOD project area.~~

14 ~~(1) Require that any eligible TOD project that involves the~~
15 ~~demolition of any of the following types of housing, within the~~
16 ~~last five years from the date of approval of the development~~
17 ~~agreement, shall be subject to a policy that requires the replacement~~
18 ~~of all of those housing units to the same or lower income levels:~~

19 *(1) Require that any eligible TOD project that involves the*
20 *demolition of any of the following types of housing, within five*
21 *years from the date of approval of the development agreement,*
22 *shall be subject to a policy that requires the replacement of all of*
23 *those housing units to the same or lower income levels:*

24 (A) Housing that is subject to a recorded covenant, ordinance,
25 or law that restricts rents or sales prices to levels affordable, as
26 defined in Section 50052.5 or 50053 of the Health and Safety
27 Code, to persons and families of moderate, lower, or very low
28 income, as defined in Section ~~50093~~, 50079.5, 50093, or 50105
29 of the Health and Safety Code, respectively.

30 (B) Housing that is subject to any form of rent or price control
31 through a public entity's valid exercise of its police power.

32 (C) Housing that had been occupied by tenants within ~~the last~~
33 five years from the date of approval of the development agreement
34 by a primary tenant who was low income and did not leave
35 voluntarily.

36 (2) As a condition of any development on a parcel within an
37 eligible TOD project area, replacement housing units for those
38 described in paragraph (1) shall be subject to recorded affordability
39 restrictions. In the case of the demolition of ~~rental units~~, *a rental*
40 *unit*, ~~a replacement units~~ *unit* shall be ~~rental units~~ *a rental unit*

1 with restrictions for at least 55 years, with ~~rent levels~~ *a rent level*
2 set at the same ~~levels~~ *level* as the previous restrictions or, if no rent
3 restrictions were in place, at ~~rents~~ *rent* affordable, as defined in
4 Section 50053 of the Health and Safety Code, to the ~~most recent~~
5 ~~tenants to occupy~~ *tenant who most recently occupied the units,*
6 *unit*, or, if the income ~~levels~~ *level* of the most recent ~~tenants~~ *tenant*
7 cannot be determined, at ~~rents~~ *rent* affordable to lower income
8 households, as defined in Section 50079.5 of the Health and Safety
9 Code.

10 (3) Prohibit the demolition of any unit occupied by lower
11 income ~~tenants~~ *tenants* unless the district or the TOD developer
12 has ~~offered~~ *offered, in writing*, the tenant a commensurate or better
13 replacement affordable housing unit *that is available for occupancy*
14 *by the displaced tenant* within one-half mile of the same district
15 station at a rent that does not exceed the tenant's previous ~~rent~~,
16 ~~and the tenant has accepted or refused the offer.~~ *rent.*

17 (4) Require that new units shall not be occupied sooner than the
18 date that replacement affordable housing units are available to all
19 eligible tenants that wish to be moved into replacement units
20 pursuant to paragraph (3).

21 (5) Provide relocation assistance to lower income tenants directly
22 displaced from housing units by an eligible TOD project pursuant
23 to Chapter 16 (commencing with Section 7260) of Division 7 of
24 Title 1 of the Government Code.

25 (6) Develop a strategy, in coordination with local jurisdictions,
26 to do both of the following:

27 (A) Increase affordable housing options and incentivize tenant
28 protections for very low and low-income residents within and
29 around an eligible TOD project area, particularly in communities
30 of concern, as defined in MTC's regional transportation plan,
31 where there is potential for residential displacement due to
32 changing market and development conditions. The strategy should
33 specifically address mitigations for the direct and indirect impacts
34 from the demolition of any existing housing units.

35 (B) Deliver housing for essential workers within and around
36 TOD projects, especially for very low, low-, and moderate-income
37 workers.

38 (b) An eligible TOD project shall do both of the following:

39 (1) (A) Where housing is proposed, restrict at least 20 percent
40 of the residential housing units for occupancy by very low and

1 low-income households and subject to a recorded affordability
2 restriction for at least 55 years in the case of rental units and 45
3 years in the case of owner-occupied units, in addition to the
4 replacement affordable housing units described in paragraph (3)
5 of subdivision (a), with a priority on residential units for very low
6 and low-income households.

7 (B) If a local jurisdiction's inclusionary housing requirement
8 mandates a higher percentage of affordable units or a deeper level
9 of affordability than that described in subparagraph (A), then that
10 jurisdiction's affordability percentage requirements shall apply in
11 place of the requirements in subparagraph (A).

12 (2) The district shall develop and implement an approach to
13 evaluating affordable housing proposals that will consider a
14 proposal's quantity and depth of affordability, and the proposal's
15 validity and feasibility with respect to the requirements of this
16 section.

17 (3) Comply with the labor requirements of Section 65913.4 of
18 the Government Code and any other applicable district labor
19 ~~policies~~ *policies, including the district's policy of requiring project*
20 *stabilization agreements pursuant to district Resolution 5182*
21 *(November 17, 2011), In the Matter of a Policy Requiring Project*
22 *Stabilization Agreements (PSA) with Local Hire Provisions on*
23 *Transit-Oriented Development (TOD) Projects.*

24 (c) On district-owned land within the district's boundaries, the
25 district shall ensure that a total of 30 percent of housing units are
26 affordable, with priority given to ~~low and very low-income~~ *very*
27 *low and low-income* households. The district shall submit a biennial
28 report to the Department of Housing and Community Development
29 stating the percentage of units that are restricted as affordable units,
30 by level of affordability, for all district TOD projects.

31 (d) The district may ~~identify~~ *exempt* specific TOD projects ~~that~~
32 ~~are from the application of TOD zoning standards when the project~~
33 ~~is in the approval process with a local jurisdiction on or before~~
34 ~~imposition of the TOD zoning standards adopted pursuant to~~
35 ~~subdivision (a) of Section 29010.6 that are proceeding with local~~
36 ~~zoning approval and entitlement pursuant to existing local zoning~~
37 ~~authority. 29010.6.~~

38 (e) This section shall remain in effect only until January 1, 2029,
39 and as of that date is repealed.

1 SEC. 6. Section 29010.9 is added to the Public Utilities Code,
2 to read:

3 29010.9. (a) Notwithstanding Section 65913.4 of the
4 Government Code, a local jurisdiction may exercise full design
5 review and conditional use permitting authority over any eligible
6 TOD project that does not meet the conditions specified in
7 subdivision (a) of Section ~~29010.7~~. *29010.7, except as provided*
8 *in subdivision (c) of Section 29010.7.*

9 (b) This section shall remain in effect only until January 1, 2029,
10 and as of that date is repealed.

11 SEC. 7. Section 29010.10 is added to the Public Utilities Code,
12 to read:

13 29010.10. (a) When the district enters into an exclusive
14 negotiating agreement with a developer for the development of an
15 eligible TOD project, that agreement shall confer a vested right to
16 proceed with development in substantial compliance with the
17 provisions of Sections 29010.6, 29010.7, 29010.8, and 29010.9.
18 However, if Section 29010.6, 29010.7, 29010.8, or 29010.9 is
19 repealed, that agreement shall confer a vested right to proceed with
20 the eligible TOD project in substantial compliance with those
21 provisions in effect at the time the agreement was entered into.

22 (b) This section shall remain in effect only until January 1, 2031,
23 and as of that date is repealed.

24 SEC. 8. *Section 29010.11 is added to the Public Utilities Code,*
25 *to read:*

26 *29010.11. (a) Before July 1, 2027, the district shall submit a*
27 *report to the Legislature assessing whether the provisions of this*
28 *chapter effectively accelerate, and improve the quality of, TOD at*
29 *district stations.*

30 *(b) The report shall include all of the following:*

31 *(1) The average time to deliver TOD projects begun before*
32 *January 1, 2019, and after January 1, 2019.*

33 *(2) A summary of the data on travel behavior and choices for*
34 *TOD residents and workers.*

35 *(3) A summary of the housing affordability in district TOD*
36 *projects begun after January 1, 2019.*

37 *(4) A summary of which TOD projects were delivered pursuant*
38 *to a streamlined approval process and delivered pursuant to a*
39 *discretionary approval process.*

1 (5) A cost comparison of discretionary and ministerial TOD
2 projects.

3 (6) Other factors the district determines to be pertinent to the
4 Legislature’s consideration of whether to extend the sunset dates
5 applicable to this chapter.

6 (c) (1) A report to be submitted pursuant to subdivision (a)
7 shall be submitted in compliance with Section 9795 of the
8 Government Code.

9 (2) Pursuant to Section 10231.5 of the Government Code, this
10 section is repealed on January 1, 2031.

11 SEC. 9. Section 29010.12 is added to the Public Utilities Code,
12 to read:

13 29010.12. (a) This article shall not apply to a district station
14 without unentitled or undeveloped land on July 1, 2018, unless
15 that station entitlement expires. For this purpose, “undeveloped
16 land” includes, but is not limited to, surface parking.

17 (b) This article shall not preclude or limit the ability of a
18 developer to seek, or the application of, a density bonus, including
19 concessions and incentives from a local government pursuant to
20 Section 65915 of the Government Code.

21 (c) This section shall remain in effect only until January 1, 2029,
22 and as of that date is repealed.

23 SEC. 10. The Legislature finds and declares that the serious
24 shortage of affordable and market-rate housing in close proximity
25 to high-capacity transit is a threat to the economic health of the
26 state and jeopardizes the state’s ability to achieve its greenhouse
27 gas reduction goals and is a matter of statewide concern and not
28 exclusively a municipal affair as that term is used in Section 5 of
29 Article XI of the California Constitution.

30 ~~SEC. 8.~~

31 SEC. 11. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

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