AB 259 (B. Rubio) Analysis and Recommendation

TITLE: Open meetings: local agencies: teleconferences.
AUTHOR: Assemblymember Blanca Rubio (D-Baldwin Park)
SPONSORS: California Special Districts Association, Three Valleys Municipal Water District
RECOMMENDATION: Support

BACKGROUND: The Ralph M. Brown Act (Brown Act) requires that all meetings of a legislative body be open and noticed to the public and that all persons be permitted to attend and participate. The Brown Act generally requires that the legislative body of a local agency post, at least 72 hours before a regular meeting, an agenda containing a brief description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A legislative body of a local agency that elects to use teleconferencing must post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public.

Assembly Bill (AB) 2449 (Chapter 285, Statutes of 2022) authorizes, until January 1, 2026, a legislative body of a local agency to use alternative teleconferencing in specified circumstances if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, that is open to the public, and situated within the boundaries of the territory over which the local agency exercises jurisdiction. The bill also allows for a member of the legislative body to participate remotely for "just cause" and "emergency circumstances" without noticing their teleconference location or making that location public.

AB 2302 (Chapter 389, Statutes of 2024), which the Board supported last year, also clarified the limit on the number of meetings a member of a legislative body may participate in solely by teleconference from a remote location to no more than two meetings per year if the body regularly meets once per month or less, five meetings per year if the body regularly meets twice per month, or seven meetings per year if the body regularly meets three or more times per month. The bill further updated the definition of "meeting" for counting the number of times a member may use teleconferencing to include any number of meetings of a legislative body that begin on the same calendar day.

PURPOSE: AB 259 would remove the January 1, 2026, sunset date for the remote teleconferencing provisions set by AB 2449 and indefinitely extend the authority for a member of a legislative body to participate in a meeting remotely for "just cause" or "emergency circumstances."

DISTRICT IMPACT: BART has successfully utilized AB 2449 procedures to facilitate remote participation for Board Directors who otherwise would have been encumbered by illness, official travel, or medical emergencies. AB 259 recognizes the demonstrated value of remote participation options and would provide the Board with greater certainty regarding the continuation of current teleconferencing provisions.

KNOWN SUPPORT/OPPOSITION: Support: California Special Districts Association (Sponsor), Three Valleys Municipal Water District (Sponsor). No opposition known at this time.

STATUS: Referred to Assembly Committee on Local Government. No hearing date set at this time.

ASSEMBLY BILL No. 259

Introduced by Assembly Member Blanca Rubio

January 16, 2025

An act to amend and repeal Sections 54953 and 54954.2 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as introduced, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act authorizes the legislative body of a local agency to use teleconferencing, as specified, and requires a legislative body of a local agency that elects to use teleconferencing to comply with specified requirements, including that the local agency post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Existing law requires a member to satisfy specified requirements to participate in a meeting remotely pursuant to these

alternative teleconferencing provisions, including that specified circumstances apply. Existing law establishes limits on the number of meetings a member may participate in solely by teleconference from a remote location pursuant to these alternative teleconferencing provisions, including prohibiting such participation for more than 2 meetings per year if the legislative body regularly meets once per month or less.

This bill would remove the January 1, 2026, date from those provisions, thereby extending the alternative teleconferencing procedures indefinitely.

Existing law authorizes a member to participate remotely pursuant to the alternative teleconferencing provisions described above under specified circumstances, including participating due to emergency circumstances. Under existing law, the emergency circumstances basis for remote participation is contingent on a request to, and action by, the legislative body, as prescribed.

Existing law generally requires the legislative body of the local agency or its designee, at least 72 hours before a regular meeting, to post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, as specified. Existing law, until January 1, 2026, authorizes a legislative body, notwithstanding that provision, to consider and take action on a request from a member to participate in a meeting remotely due to emergency circumstances if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made, as specified.

This bill would remove the January 1, 2026, date from that provision, thereby extending the authorization for a legislative body of a local agency to consider and take action on a request from a member to participate in a meeting remotely due to emergency circumstances as described above indefinitely.

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 local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open

meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 389 of the Statutes of 2024, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction

of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of

a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph

(A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body

shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) (A) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for more than the following number of meetings, as applicable:

(i) Two meetings per year, if the legislative body regularly meets once per month or less.

(ii) Five meetings per year, if the legislative body regularly meets twice per month.

(iii) Seven meetings per year, if the legislative body regularly meets three or more times per month.

(B) For the purpose of counting meetings attended by teleconference under this paragraph, a "meeting" shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted,

the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

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

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear,

discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

~~(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.~~

SEC. 2. Section 54953 of the Government Code, as amended by Section 2 of Chapter 534 of the Statutes of 2023, is repealed.

~~54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.~~

~~(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.~~

~~(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body~~

~~of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:~~

~~(A) All votes taken during a teleconferenced meeting shall be by rollcall.~~

~~(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.~~

~~(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.~~

~~(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).~~

~~(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.~~

~~(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.~~

~~(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.~~

~~(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a~~

~~teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.~~

~~(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.~~

~~(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.~~

~~(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:~~

~~(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.~~

~~(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting~~

~~in person would present imminent risks to the health or safety of attendees.~~

~~(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:~~

~~(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.~~

~~(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.~~

~~(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.~~

~~(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.~~

~~(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.~~

~~(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each~~

~~agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.~~

~~(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.~~

~~(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:~~

~~(A) The legislative body has reconsidered the circumstances of the state of emergency.~~

~~(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.~~

~~(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.~~

~~(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.~~

~~(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.~~

~~(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which~~

~~the public may observe and address the legislative body by electronic means.~~

~~(i) For the purposes of this section, the following definitions shall apply:~~

~~(1) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).~~

~~(2) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.~~

~~(j) This section shall become operative January 1, 2026.~~

SEC. 3. Section 54954.2 of the Government Code, as amended by Section 91 of Chapter 131 of the Statutes of 2023, is amended to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary internet website home page of a city, county, city and

county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda, including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary internet website home page of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an internet website with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an internet website of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on their own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(4) To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's internet website, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

~~(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.~~

SEC. 4. Section 54954.2 of the Government Code, as amended by Section 92 of Chapter 131 of the Statutes of 2023, is repealed.

~~54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including~~

~~items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.~~

~~(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website, the following provisions shall apply:~~

~~(A) An online posting of an agenda shall be posted on the primary internet website home page of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.~~

~~(B) An online posting of an agenda, including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:~~

~~(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used internet search applications.~~

~~(ii) Platform independent and machine readable.~~

~~(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.~~

~~(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website and an integrated agenda~~

~~management platform shall not be required to comply with subparagraph (A) if all of the following are met:~~

~~(i) A direct link to the integrated agenda management platform shall be posted on the primary internet website home page of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an internet website with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.~~

~~(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.~~

~~(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.~~

~~(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).~~

~~(D) For the purposes of this paragraph, both of the following definitions shall apply:~~

~~(i) "Integrated agenda management platform" means an internet website of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.~~

~~(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.~~

~~(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.~~

~~(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on their own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.~~

~~(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.~~

~~(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.~~

~~(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).~~

~~(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.~~

~~(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.~~

~~(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's internet website, if the~~

~~local agency has one, shall only apply to a legislative body that meets either of the following standards:~~

~~(1) A legislative body as that term is defined by subdivision (a) of Section 54952.~~

~~(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.~~

~~(e) This section shall become operative January 1, 2026.~~

SEC. 5. The Legislature finds and declares that Sections 1 and 2 of this act, which amend and repeal Section 54953 of the Government Code, and Sections 3 and 4 of this act, which amend and repeal Section 54954.2 of the Government Code, impose 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:

By extending the alternative teleconferencing procedure provisions and provisions relating to requests from members to participate in those meetings remotely due to emergency circumstances indefinitely, this act allows for greater accessibility to, and public participation in, teleconference meetings while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 6. The Legislature finds and declares that Sections 1 and 2 of this act, which amend and repeal Section 54953 of the Government Code, and Sections 3 and 4 of this act, which amend and repeal Section 54954.2 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure greater accessibility to, and public participation in, teleconference meetings.

O

AB 394 (Wilson) Analysis and Recommendation

TITLE: Crimes: public transportation providers
AUTHOR: Assemblymember Wilson (D-Suisun City)
SPONSORS: California Transit Association, California Conference Board of the Amalgamated Transit Union (ATU), and the International Association of Sheet Metal, Air, Rail and Transportation Workers Transportation Division (SMART TD)
RECOMMENDATION: Support

BACKGROUND: In recent years, there has been an unfortunate increase in assaults and other harmful behavior targeting transit riders and workers, including vehicle operators, station agents, and enforcement officers. This disrupts transit operations, undermines confidence in the safety of public transportation, and inhibits ridership recovery.

Penal Code Section 243.3 provides that battery committed against an operator, driver, or passenger on a bus, cable car, trackless trolley, or other vehicles operated on stationary rails, or against a station agent or ticket agent for a transportation provider, is punishable by a fine of up to $10,000 or by imprisonment in a county jail for a period of up to one year, or both. If a victim is injured, the offense is punishable by a fine of up to $10,000, imprisonment in a county jail for up to one year or imprisonment in state prison for 16 months or two or three years, or both fine and imprisonment. Penal Code Section 369i provides that any person who enters or remains upon the property of a railroad or transit property without permission and whose entry, presence or conduct interferes with the safe and efficient operation of trains or other transit services is guilty of a misdemeanor.

BART was first granted initial legislative authority to issue prohibition orders in 2011. The program was created to improve front-line employee and rider safety by excluding people from the system who commit violent crimes or sexual offenses, or traffic and sell narcotics. In 2017, BART received permanent authority to issue prohibition orders via AB 730 (Chapter 46, Statutes of 2017). In 2021, BART sponsored AB 1337 (Chapter 534, Statutes of 2021), extending the authority to issue prohibition orders to areas where BART has an operating agreement but does not own the property.

Individuals who are issued a prohibition order can be banned from BART property for 30 days on the first violation, up to 60 days upon the issuance of a second prohibition order, and up to 180 days after the issuance of a third prohibition order.

PURPOSE: AB 394 expands the existing battery penalties against transit operators, station agents, or ticket agents in Penal Code Section 243.3, to now cover all transit employees and contractors. It defines who may issue citations and enforce trespass violations including state and local law enforcement officers and transit enforcement officers designated by a public transit agency, if they have completed the appropriate training.

Under AB 394, the courts would also be authorized, following a conviction under either statute and request of the transit agency or prosecuting authority, to issue probation orders restricting individuals from accessing transit facilities for a period of up to 18 months. The issuance of a prohibition order by a court would require a hearing and an opportunity for individuals to contest or seek modification of the prohibition order.

DISTRICT IMPACT: AB 394 would empower transit agencies and the courts with additional tools to deter harmful behaviors that inhibit the operation of public transportation services and enhance safety for BART workers and passengers alike. This bill would allow BART Police or other enforcement officers with the proper training to enforce the trespass provisions contained in Penal Code Section 369i.

While the bill expands the ability to seek prohibition orders under violations of Penal Code Sections 243.3 and 369i, this bill does not change BART's prohibition authority as set in statute.

KNOWN SUPPORT/OPPOSITION: Support: California Transit Association (Sponsor), California Conference Board of the Amalgamated Transit Union (ATU) (Sponsor), International Association of Sheet Metal, Air, Rail and Transportation Workers Transportation Division (SMART TD) (Sponsor), California Teamsters Public Affairs Council. Opposition: None known at this time.

STATUS: Referred to the Assembly Committee on Public Safety. Hearing set for March 11.

ASSEMBLY BILL No. 394

Introduced by Assembly Member Wilson

February 3, 2025

An act to amend Sections 243.3 and 369i of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as introduced, Wilson. Crimes: public transportation providers.

Existing law defines a battery as any willful and unlawful use of force or violence upon the person of another. Existing law provides that when a battery is committed against the person of an operator, driver, or passenger on a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, as specified, and the person who commits the offense knows or reasonably should know that the victim is engaged in the performance of their duties, the penalty is imprisonment in a county jail not exceeding one year, a fine not exceeding $10,000, or both the fine and imprisonment. Existing law also provides that if the victim is injured, the offense would be punished by a fine not exceeding $10,000, by imprisonment in a county jail not exceeding one year or in the state prison for 16 months, 2, or 3 years, or by both that fine and imprisonment.

This bill would expand this crime to apply to an employee or contractor of a public transportation provider. The bill would authorize the court, following a conviction, to impose a prohibition order barring reentry to public transit property, as specified. The bill would make a violation of a prohibition order a misdemeanor, as specified. By

expanding the scope of an existing crime and creating a new crime, the bill would impose a state-mandated local program.

Under existing law, any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor. Existing law defines "transit-related property" for this purpose as any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, or transit district, as defined, that are used to provide public transportation by rail or passenger bus or are directly related to that use, or any property, facilities, or vehicles upon which the San Francisco Bay Area Rapid Transit District owes policing responsibilities to a local government, as specified.

This bill would expand that definition to include any properties, facilities, ferries, or vehicles, upon which a county transportation commission, transportation authority, joint powers authority, or operator, as defined, owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. The bill would authorize state and local law enforcement officers or transit enforcement officers, as specified, to enforce the above-described provisions.

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:

SECTION 1. Section 243.3 of the Penal Code is amended to read:

243.3. ~~When~~ *(a) If* a battery is committed against the person of an operator, driver, or passenger on a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against

a schoolbus driver, or against the person of a station agent or ticket agent for the entity providing the transportation, *or against an employee or contractor of a public transportation provider, as defined in Section 243.35,* and the person who commits the offense knows or reasonably should know that the victim, in the case of an operator, driver, or agent, *employee, or contractor,* is engaged in the performance of ~~his or her~~ *their* duties, or is a passenger the offense shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. If an injury is inflicted on that victim, the offense shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year or in the state prison for 16 months, or two or three years, or by both that fine and imprisonment.

(b) A person convicted of violating this section or Section 369i may be subject to a prohibition order barring reentry to public transit property as follows:

(1) Upon conviction, the prosecuting authority, transit agency, or its legal representative may petition the court for a prohibition order to restrict the individual's access to public transit property. The petition shall include all of the following:

(A) Evidence of the conviction pursuant to this section or Section 369i.

(B) A statement of facts demonstrating the need for the prohibition to protect public safety and transit operations.

(C) The proposed duration and scope of the prohibition order, not to exceed a period of 18 months.

(2) The court shall hold a hearing within 30 days of receiving the petition to determine whether to issue the prohibition order. The individual subject to the order shall be provided notice and an opportunity to be heard.

(3) The court may issue a prohibition order if it finds by a preponderance of the evidence both of the following:

(A) The individual poses a continuing threat to public safety or transit operations.

(B) The order is necessary to prevent future violations or disruptions.

(4) The scope of the prohibition order may do both of the following:

(A) Bar the individual from entering specified transit properties or facilities.

(B) Limit access to transit services for a duration determined by the court, not to exceed 18 months, subject to review.

(5) Prohibition orders issued pursuant to this subdivision shall be consistent with state and federal laws protecting civil rights and public access.

(c) (1) A violation of a prohibition order issued pursuant to this section constitutes a misdemeanor.

(2) The individual subject to the prohibition order may petition the court for modification or termination of the order after demonstrating compliance and rehabilitation.

(3) Transit agencies shall maintain records of issued prohibition orders and provide periodic reviews to ensure proportionality and fairness.

SEC. 2. Section 369i of the Penal Code is amended to read:

369i. (a) (1) Any person who enters or remains upon the property of any railroad without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor.

(2) As used in this subdivision, "property of any railroad" means any land owned, leased, or possessed by a railroad upon which is placed a railroad track and the land immediately adjacent thereto, to the distance of 20 feet on either side of the track, that is owned, leased, or possessed by a railroad.

(b) (1) Any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor.

(2) This subdivision may be enforced by both of the following:

(A) State and local law enforcement officers.

(B) Transit enforcement officers designated by a public transit agency, if they have completed the requisite training for issuing citations and enforcing trespass violations.

(3) Transit enforcement officers may detain individuals for violations of this subdivision until law enforcement arrives or as authorized pursuant to state law.

(4) This subdivision does not apply to individuals performing official duties with lawful authority, including, but not limited to, public transit agency employees, emergency responders, and individuals granted special permission by the transit agency.

(5) Public transit agencies shall provide clear signage at restricted access points to inform the public of trespassing prohibitions and potential penalties.

~~(2)~~

(6) As used in this subdivision, "transit-related property" means any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, *joint powers authority,* or ~~transit district,~~ *operator,* as defined in Section ~~99170~~ *99210* of the Public Utilities Code, that are used to provide public transportation by ~~rail or passenger bus~~ *rail, passenger bus, or ferry,* or are directly related to that use, or any property, facilities, or vehicles upon which ~~the San Francisco Bay Area Rapid Transit District~~ *a county transportation commission, transportation authority, joint powers authority, or operator, as defined in Section 99210 of the Public Utilities Code,* owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement.

(7) As used in this subdivision, "transit enforcement officer" means an individual designated by a public transit agency to enforce rules and regulations on transit property, including security personnel authorized to issue citations.

(c) This section does not prohibit picketing in the immediately adjacent area of the property of any railroad or transit-related property or any lawful activity by which the public is informed of the existence of an alleged labor dispute.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

O

SB 71 (Wiener) Analysis and Recommendation

TITLE: California Environmental Quality Act: exemptions: transit projects.
AUTHOR: Senator Wiener (D-San Francisco)
CO-AUTHORS: Assemblymembers Chen (R-Brea) and Lee (D-Milpitas)
SPONSOR: California Transit Association
CO-SPONSORS: Bay Area Council, SPUR, Los Angeles County Metropolitan Transportation Authority
RECOMMENDATION: Support

BACKGROUND: The California Environmental Quality Act (CEQA) generally prescribes a process for evaluating the environmental effects of specified projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows the project may have significant effects on the environment, the lead agency must prepare an environmental impact report (EIR). Generally, an EIR must accurately describe the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed projects. Prior to any project that has received environmental review being approved, if mitigation measures are required, the agency must adopt a reporting or monitoring program to ensure compliance with those measures. Any one of these steps can, and often does, invite litigation against the lead agency.

In 2020, recognizing that CEQA is often used by project opponents to stop or delay clean transportation projects, the Legislature passed, and Governor Newsom signed into law, Senate Bill (SB) 288 (Chapter 200, Statutes of 2020), temporarily exempting from CEQA certain clean transportation projects, including new bus rapid transit, bus, or light rail services on public rail or highway rights-of-way; transit prioritization projects; projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians; projects to construct or maintain infrastructure to charge or refuel zero-emission buses; projects carried out by a city or county to reduce minimum parking requirements; and projects for pedestrian and bicycle facilities.

In 2022, these exemptions were extended through December 31, 2029, by SB 922 (Chapter 987, Statutes of 2022), which the BART Board supported. Additionally, SB 922 modified existing CEQA exemptions to include active transportation plans and pedestrian plans, further expediting the delivery of clean transportation projects.

PURPOSE: SB 71 would remove the January 1, 2030, sunset date set by SB 922, making these CEQA exemptions permanent. Additionally, the bill clarifies that additional project types are eligible for exemptions, including bus shelters and lighting; zero-emission shuttle and ferry service and terminal projects; transit Comprehensive Operational Analyses (COAs); and transit infrastructure maintenance. The bill also includes an inflationary adjustment to the cost thresholds that trigger public outreach and equity analysis requirements.

SB 71 maintains the safeguards established in SB 922 that ensure CEQA exemptions are not granted to projects with detrimental impacts to vulnerable populations or the environment. For example, projects must be located in an existing public right of way, must not add new private automobile capacity, must not demolish affordable housing, and must use a skilled and trained workforce or have a project labor agreement in place.

DISTRICT IMPACT: SB 71 would make permanent the current CEQA exemption for active transportation plans, pedestrian plans, or bicycle transportation plans for the restriping of streets and highways, bicycle

parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles. With the goal of further expediting the delivery of clean transportation projects and expanding access to alternative modes of mobility, SB 71 is aligned with BART's Station Access Policy, which seeks to support broader livability and sustainability in the Bay Area by enabling riders to get to and from transit stations safely, comfortably, and cost-effectively. BART may also be able to take advantage of the new CEQA exemption for transit infrastructure maintenance established by this bill.

KNOWN SUPPORT/OPPOSITION: Support: California Transit Association (Sponsor), SPUR (Co-Sponsor), Bay Area Council (Co-Sponsor), Los Angeles County Metropolitan Transportation Authority (Co-Sponsor), City and County of San Francsico, Metropolitan Transportation Commission, Caltrain Joint Powers Board. No known opposition at this time.

STATUS: Referred to Senate Committees on Environmental Quality and Transportation. No hearing date set at this time.

SENATE BILL No. 71

Introduced by Senator Wiener
(Coauthors: Assembly Members Chen and Lee)

January 14, 2025

An act to amend Sections 21080.20 and 21080.25 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 71, as introduced, Wiener. California Environmental Quality Act: exemptions: transit projects.

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 active transportation plans, pedestrian plans, or bicycle transportation plans for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.

This bill would extend the operation of the above-mentioned exemption indefinitely. The bill would also exempt a transit comprehensive operational analysis, as defined, a transit route readjustment, or other transit agency route addition, elimination, or

modification, from the requirements of CEQA. Because a lead agency would be required to determine whether a plan qualifies for this exemption, the bill would impose a state-mandated local program.

CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects, such as pedestrian and bicycles facilities, transit prioritization projects, public projects for the institution or increase of bus rapid transit, bus, or light rail service, including the construction or rehabilitation of stations, terminals, or existing operations facilities, and public projects for the construction or maintenance of infrastructure of facilities to charge, refuel, or maintain zero-emission public transit buses, trains, or ferries, as provided. CEQA requires, except as provided, those exempted projects to be carried out by a local agency and meet certain requirements, including certain labor requirements.

This bill would extend the operation of the above-mentioned exemption indefinitely. The bill would exempt from the requirements of CEQA a public project for the improvement of bus rapid transit, bus, or light rail service, including the maintenance, public projects for the improvement, institution, or increase of shuttles and ferries, and for the maintenance, construction, or rehabilitation of stops which will be exclusively used by zero-emission, near-zero-emission, low oxide of nitrogen engine, compressed natural gas fuel, fuel cell, or hybrid powertrain buses, shuttles, ferries, or light rail vehicles, as provided. The bill would exempt a project carried out by a public transit agency conducted in compliance with specified regulations of the State Air Resources Board relating to commercial harbor craft and in-use locomotives. Because a lead agency would be required to determine whether a project qualifies for this exemption, the bill would impose a state-mandated local program.

Existing law requires a CEQA exempt project exceeding specified dollar amounts to meet certain criteria, as provided.

This bill would instead require a CEQA exempt project that is, based on the project engineer's cost estimate, anticipated to exceed a specified dollar amount, to meet certain criteria, as provided. The bill would require the Office of Land Use and Climate Innovation, beginning January 1, 2026, and every two years thereafter, to adjust these amounts to reflect changes in the California Consumer Price Index, and publish the updated amounts on its internet website.

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:

SECTION 1. Section 21080.20 of the Public Resources Code is amended to read:

21080.20. (a) (1) *(A)* This division does not apply to an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.

(B) This division does not apply to a transit comprehensive operational analysis, transit route readjustment, or other transit agency route addition, elimination, or modification.

(2) An active transportation plan or pedestrian plan is encouraged to include the consideration of environmental factors, but that consideration does not inhibit or preclude the application of this section.

(3) An individual project that is a part of an active transportation ~~plan or~~ *plan,* pedestrian ~~plan~~ *plan, or transit comprehensive operational analysis* remains subject to this division unless another exemption applies to that project.

(b) Before determining that a project described in subdivision (a) is exempt pursuant to this section, the lead agency shall hold noticed public hearings in areas affected by the project to hear and respond to public comments. Publication of the notice shall be no fewer times than required by Section 6061 of the Government Code by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(c) If a local agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out that project, the notice shall be filed with the Office of Planning and Research and the county clerk in the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152.

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

(1) "Active transportation plan" means a plan developed by a local jurisdiction that promotes and encourages people to choose walking, bicycling, or rolling through the creation of safe, comfortable, connected, and accessible walking, bicycling, or rolling networks, and encourages alternatives to single-occupancy vehicle trips.

(2) "Pedestrian plan" means a plan developed by a local jurisdiction that establishes a comprehensive, coordinated approach to improving pedestrian infrastructure and safety.

(3) "Transit comprehensive operational analysis" means a plan that redesigns or modifies a transit operator's or local agency's public transit service network, including the routing of fixed route and microtransit services.

~~(e) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

SEC. 2. Section 21080.25 of the Public Resources Code is amended to read:

21080.25. (a) For purposes of this section, the following definitions apply:

(1) "Affordable housing" means any of the following:

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

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

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

(2) “Bicycle facilities” includes, but is not limited to, bicycle parking, bicycle sharing facilities, and bikeways as defined in Section 890.4 of the Streets and Highways Code.

(3) “High-occupancy vehicle” means a vehicle with three or more occupants.

(4) “Highway” means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. “Highway” includes a street.

(5) “Local agency” means a public transit operator, city, county, city and county, special district, joint powers authority, local or regional transportation agency, or congestion management agency.

(6) “Part-time transit lanes” means designated highway shoulders that support the operation of transit vehicles during specified times and are not open to nonpublic transit vehicles at any time.

(7) “Project labor agreement” has the same meaning as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(8) “Public transit operator” has the same meaning as in Section 99210 of the Public Utilities Code.

(9) “Skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(10) “Transit lanes” means street design elements that delineate space within the roadbed as exclusive to transit use, either full or part time.

(11) “Transit prioritization projects” means any of the following transit project types on highways or in the public right-of-way:

(A) Signal and sign changes, such as signal coordination, signal timing modifications, signal modifications, or the installation of traffic signs or new signals.

(B) The installation of wayside technology and onboard technology.

(C) The installation of ramp meters.

(D) The conversion to dedicated transit lanes, including transit queue jump or bypass lanes, shared turning lanes and turn restrictions, the narrowing of lanes to allow for dedicated transit lanes or transit reliability improvements, or the widening of existing transit travel lanes by removing or restricting street parking.

(E) Transit stop access and safety improvements, including, but not limited to, the installation of *bus shelters, lighting,* transit bulbs and the installation of transit boarding islands.

(12) "Transportation demand management program" means a specific program of strategies, incentives, and tools to be implemented, including, with specified annual status reporting obligations, to reduce vehicle trips by providing opportunities for the public to choose sustainable travel options, such as transit, bicycle riding, or walking. A specific program of strategies, incentives, and tools includes, but is not limited to, any of the following:

(A) Provision of onsite electric vehicle charging stations in excess of applicable requirements.

(B) Provision of dedicated parking for car share or zero-emission vehicles, or both types of vehicles, in excess of applicable requirements.

(C) Provision of bicycle parking in excess of applicable requirements.

(b) This division does not apply to any of the following projects:

(1) Pedestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.

(2) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians within the public right-of-way.

(3) Transit prioritization projects.

(4) A project for the designation and conversion of general purpose lanes to high-occupancy vehicle lanes or bus-only lanes, or highway shoulders to part-time transit lanes, for use either during peak congestion hours or all day on highways with existing public transit service or where a public transit agency will be implementing public transit service as identified in a short range transit plan.

(5) A public project for the ~~institution~~ *improvement, institution,* or increase of bus rapid transit, *shuttle,* bus, *ferry,* or light rail service, including the ~~construction~~ *maintenance, construction,* or rehabilitation of *stops,* stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission, near-zero-emission, low oxide of nitrogen engine, compressed natural gas fuel, fuel cell, or hybrid powertrain ~~buses~~ *buses, shuttles, ferries,* or light rail vehicles, on existing public

rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit. The project shall be located on a site that is wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(6) A public project for the institution or increase of passenger rail service, other than light rail service eligible under paragraph (5), including the construction or rehabilitation of stations, terminals, or existing operations facilities, which will be exclusively used by zero-emission trains. The project shall be located entirely within an existing rail right-of-way or existing highway right-of-way, whether or not the right-of-way is in use for passenger rail transit.

(7) (A) A public project to construct or maintain infrastructure or facilities to charge, refuel, power, or maintain zero-emission public transit buses, trains, or ferries, provided the project is carried out by a public transit agency in compliance with, the State Air Resources Board's Innovative Clean Transit regulations (Article 4.3 (commencing with Section 2023) of Chapter 1 of Division 3 of Title 13 of the California Code of ~~Regulations)~~ *Regulations), the Commercial Harbor Craft regulations (Article 4.3 (commencing with Section 2299.5) of Chapter 5.1 of Division 3 of Title 13 of the California Code of Regulations and Article 4.3 (commencing with Section 93118.5) of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations), the In-Use Locomotive regulations (Article 8 (commencing with Section 2478) of Chapter 9 of Division 3 of Title 13 of the California Code of Regulations),* or any regulations identified by the State Air Resources Board's 2020 Mobile Source Strategy, adopted on October 28, 2021, and the project is located on property owned by the local agency or within an existing public right-of-way or on property owned by a public or private utility.

(B) A lead agency applying an exemption pursuant to this paragraph for hydrogen refueling infrastructure or facilities necessary to refuel or maintain zero-emission public transit buses, trains, or ferries shall comply with clauses (i), (iii), and (iv) of subparagraph (D) of, and with subparagraph (E) of, paragraph (1) of subdivision (d).

(8) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project identified in paragraphs (1) to (7), inclusive.

(9) A project that consists exclusively of a combination of any of the components of a project identified in paragraphs (1) to (8), inclusive.

(10) A planning decision carried out by a local agency to reduce or eliminate minimum parking requirements or institute parking maximums, remove or restrict parking, or implement transportation demand management requirements or programs.

(c) Except as provided in subdivision (g), a project exempt from this division under this section shall meet all of the following criteria:

(1) *(A)* A local agency is carrying out the project and is the lead agency for the project.

(B) The lead agency's governing board shall take an action at a public meeting to approve a project subject to subdivision (b).

(2) The project does not induce single-occupancy vehicle trips, add additional highway lanes, widen highways, or add physical infrastructure or striping to highways except for minor modifications needed for the efficient and safe movement of transit vehicles, bicycles, or high-occupancy vehicles, such as extended merging lanes, shoulder improvements, or improvements to the roadway within the existing right of way. The project shall not include the addition of any auxiliary lanes.

(3) The construction of the project shall not require the demolition of affordable housing units.

(d) (1) ~~For a project exceeding one hundred million dollars ($100,000,000), a project exempt from this division under this section~~ *A project that is exempt from this division under this section that is, based on the project engineer's cost estimate at the time the local agency takes an action pursuant to subparagraph (B) of paragraph (1) of subdivision (c), anticipated to exceed one hundred million dollars ($100,000,000)* shall also meet all of the ~~following:~~ *following criteria:*

(A) The project is incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review pursuant to this division within 10 years of the approval of the project.

(B) The project's construction impacts are fully mitigated consistent with applicable law.

(C) (i) The lead agency shall complete and consider the results of a project business case and a racial equity analysis. The Office of Planning and Research may set guidelines for the project business case and the racial equity analysis or delegate that authority to metropolitan planning organizations.

~~(ii) The project business case required under this subparagraph shall set forth the rationale for why the project should be implemented to solve a problem or address an opportunity, outline strategic goals and objectives of the project, evaluate other options to achieve the project's objectives, describe the economic costs and benefits of the project, describe the financial implications of the project, and establish what is required to deliver and operate the project.~~

~~(iii)~~

(ii) The racial equity analysis required under this subparagraph shall identify the racial equity impacts of the project, identify who will benefit from and be burdened by the project, and, where significant or disproportionate impacts exist, suggest strategies, designs, or actions to mitigate those impacts.

(D) The lead agency shall hold noticed public meetings as follows:

(i) Before determining that a project is exempt pursuant to this section, the lead agency shall hold at least three noticed public meetings in the project area to hear and respond to public comments.

(ii) At least one of the three public meetings shall review the project business case and the racial equity analysis. The review of these documents does not inhibit or preclude application of this section.

(iii) The lead agency shall conduct at least two noticed public meetings annually during project construction for the public to provide comments.

(iv) The public meetings held pursuant to clauses (i) to (iii), inclusive, shall be in the form of either a public community planning meeting held in the project area or in the form of a regularly scheduled meeting of the governing body of the lead agency.

(E) The lead agency shall give public notice of the meetings in subparagraph (D) to the last known name and address of all the organizations and individuals that have previously requested notice and shall also give the general public notice using at least one of the following procedures:

(i) Publication of the notice in a newspaper of general circulation in the area affected by the project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(ii) Posting of the notice onsite and offsite in the area where the project is located.

(iii) Posting of the notice on the lead agency's internet website and social media accounts.

(2) In addition to the requirements of paragraph (1), for a project described in that paragraph for which at least 50 percent of the project or project's stops and stations are located in an area that is at risk of residential displacement and that will have a maximum of 15-minute peak headways, the local agency shall complete an analysis of residential displacement and suggest antidisplacement strategies, designs, or actions. For a project subject to this paragraph, the lead agency shall define or identify areas at risk of residential displacement.

(3) The amount in paragraph (1) shall be adjusted pursuant to subdivision (j).

(e) ~~For a project exceeding fifty million dollars ($50,000,000), a project exempt from this division under this section~~ *(1) A project that is exempt from this division under this section that is, based on the project engineer's cost estimate at the time the local agency takes an action pursuant to subparagraph (B) of paragraph(1) of subdivision (c), anticipated to exceed fifty million dollars ($50,000,000)* shall also comply with clauses (i), (iii), and (iv) of subparagraph (D) of, and with subparagraph (E) of, paragraph (1) of subdivision (d).

(2) The amount in paragraph (1) shall be adjusted pursuant to subdivision (j).

(f) (1) (A) Except as provided in subdivision (g), ~~in addition to the requirements of~~ *as part of the lead agency's governing board action pursuant to subparagraph (B) of paragraph (1) of* subdivision (c), ~~following the granting of an exemption under this~~

~~section,~~ the lead agency shall ~~take an action at a public meeting of its governing board to~~ certify that the project will be completed by a skilled and trained workforce.

(B) Subparagraph (A) does not apply if the lead agency has an existing policy or certification approved by its governing board that requires the use of a skilled and trained workforce to complete the project if the lead agency is a signatory to a project labor agreement that will require the use of a skilled and trained workforce on the project.

(2) (A) Except as provided in subparagraph (B), for a project that is exempted under this section, the lead agency shall not enter into a construction contract with any entity unless the entity provides to the lead agency an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or a contract that falls within an apprenticeship occupation in the building and construction trades in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(B) Subparagraph (A) does not apply if any of the following requirements are met:

(i) The lead agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project to use a skilled and trained workforce and the entity has agreed to be bound by that project labor agreement.

(ii) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the lead agency before January 1, 2021.

(iii) The entity contracted to perform the project entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project to use a skilled and trained workforce.

(g) Subdivisions (c) and (f) do not apply to a project described in paragraph (10) of subdivision (b).

(h) If the lead agency determines that a project is not subject to this division pursuant to this section, and the lead agency determines to carry out that project, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152.

(i) (1) The amendments made to paragraph (5) of subdivision (b) by Chapter 987 of the Statutes of 2022 (Senate Bill 922 of the 2021–22 Regular Session) may apply to projects for which a lead agency has filed a notice of exemption under this section before January 1, 2023.

(2) For projects for which a lead agency has filed a notice of exemption under this section before January 1, 2023, notwithstanding subdivision (d), as it read on December 31, 2022, the lead agency may certify that the project will be completed by a skilled and trained workforce after the granting of the exemption under this section or the lead agency may demonstrate compliance with subparagraph (B) of paragraph (1) of subdivision (f).

~~(j) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

(j) Beginning January 1, 2026, and every two years thereafter, the Office of Land Use and Climate Innovation shall adjust the amounts reflected in paragraph (1) of subdivision (c) and paragraph (1) of subdivision (e) to reflect changes in the California Consumer Price Index, and publish the updated amounts on its internet website.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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SB 79 (Wiener) Analysis and Recommendation

TITLE: Planning and zoning: housing development: transit-oriented development
AUTHOR: Senator Wiener (D-San Francisco)
SPONSORS: California YIMBY, San Francisco Bay Area Planning and Urban Research Association (SPUR), Streets for All, Bay Area Council, Greenbelt Alliance
RECOMMENDATION: Support

BACKGROUND: Assembly Bill (AB) 2923 (Chapter 1000, Statutes of 2018) amended the Public Utilities Code to add sections affecting zoning requirements on BART-owned property within a half mile of our stations in Alameda, Contra Costa, and San Francisco Counties. The bill called for local jurisdictions to rezone subject properties to conform with AB 2923 Baseline Zoning Standards; for any subject property not rezoned by July 1, 2022, the Baseline Zoning Standards became the standards through January 1, 2029, when AB 2923 sunsets. AB 2923 also established a streamlined approval process for certain projects built on BART property.

Additionally, Senate Bill (SB) 423 (Chapter 778, Statutes of 2023), which this Board supported in 2023, also established a streamlined, ministerial process for approving housing projects that meet objective state and local planning standards. This, along with two other bills that this Board supported in 2022, AB 2097 (Chapter 459, Statutes of 2022) and AB 2011 (Chapter 647, Statutes of 2022), allows for state law to preempt certain local land use restrictions to allow greater housing density near transit.

However, with this recent progress, many areas within a half mile of high-frequency transit are still not zoned to allow the mix of uses, heights, and densities that support transit. At many stations, potential BART ridership is dampened by surrounding low-density and/or auto-oriented land uses. While BART has, until 2029, the streamlined ability to build TOD on land it owns under AB 2923, other transit agencies in the state do not. Instead, they face zoning barriers to building TOD on land they own at their stations.

PURPOSE: SB 79 establishes state standards for TOD around qualifying transit stations and stops, allowing for multifamily residential use on any site zoned for residential, mixed, use, commercial, or light industrial development, up to specified height, density, and floor area ratios determined based on the distance from a transit stop as well as the frequency and capacity of transit serving those stops. The bill establishes three tiers for service: Tier 1 stops are served by grade separated rail transit and high frequency commuter rail, Tier 2 stops are served by light rail or bus rapid transit (BRT), and Tier 3 stops are served by moderate frequency commuter rail service or ferry service. SB 79 would not apply to areas around non-BRT bus-only transit stops.

For land that transit districts own or on which they have permanent operating easements, SB 79 would also allow transit districts to adopt residential and commercial development standards that are equal or greater to the densities allowed by local or state law. SB 79 would also make TOD developments under the bill's provisions eligible for the streamlined ministerial approvals process under SB 423, if they meet environmental, labor, and affordability standards set by that bill.

This bill would also make specified changes to the Surplus Land Act that would allow public transit operators to deem certain uses of surplus lands as "agency's use" for purposes of the Act and would also add under the definition of "agency's use" land leased to support public transit operations.

DISTRICT IMPACT: BART has an ambitious goal to deliver 20,000 housing units, 7,000 of them affordable, in our TOD projects by 2040. SB 79 would reinforce and expand the zoning certainty needed to make this goal achievable. While AB 2923 focused only on BART-owned land, SB 79 would establish

minimum zoning standards for transit properties as well as areas surrounding transit stops and stations, allowing for greater density to be developed beyond BART property. People who live in proximity to high quality transit make more of their trips on transit. The transit-oriented development that SB 79 aims to facilitate would benefit BART over time through growth in ridership. SB 79 also would essentially remove the January 1, 2029, sunset date for AB 2923.

AB 2923 has already shifted community discussions concerning allowable heights and densities near transit, from a focus on low-rise developments to greater acceptance of contemporary standards. For example, before AB 2923, zoning constraints would not have allowed for development at our North Berkeley station. Now we are advancing over 700 new homes, about half affordable. Similarly, at Ashby station, AB 2923 allowed for hundreds of additional homes that would have not been possible before the bill's passage. SB 79 would allow for these benefits to be unlocked for land beyond our stations as well as for other rail, BRT, and ferry stations throughout the state.

Additionally, as we develop TOD projects on our station parking lots, the District is committed to incorporating access and infrastructure improvements such as bike lanes, pedestrian walkways, and bus accommodations into these projects. SB 79 would allow for these improvement projects, for the purposes of the California Environmental Quality Act (CEQA), to be considered as part of the development rather than separate projects, unlocking significant streamlining benefits.

KNOWN SUPPORT/OPPOSITION: Support: California YIMBY (co-sponsor), San Francisco Bay Area Planning and Urban Research Association (SPUR) (co-sponsor), Streets For All (co-sponsor), Bay Area Council (co-sponsor), Greenbelt Alliance (co-sponsor), East Bay for Everyone, Redlands YIMBY, Claremont Mayor Jed Leano, Santa Monica Councilmember Jesse Zwick, Berkeley Councilmember Rashi Kesarwani, El Cerrito Councilmember Rebecca Saltzman, Gilroy Councilmember Zach Hilton. No known opposition at this time.

STATUS: Referred to the Senate Committee on Rules, awaiting further committee assignments.

AMENDED IN SENATE MARCH 5, 2025

SENATE BILL No. 79

Introduced by Senator Wiener

January 15, 2025

An act *to amend Section 54221 of, and 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. Planning and zoning: housing development: transit-oriented development.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district, except a local agency whose primary purpose or mission is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, as specified.

This bill would additionally include land leased to support public transit operations in the definition of "agency's use," as described above. The bill would also revise the definition of "agency's use" with respect to commercial or industrial uses to instead provide that a district

or a public transit operator may use land for commercial or industrial uses or activities, as described above.

(2) 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 housing element. 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 may bring an action to enforce, 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 residential development 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, commercial, or light industrial 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 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 liable for penalties, as provided. The bill would specify that the 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 under that law.

The bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units. 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, provided that the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

The 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 permit a local government to adopt an ordinance to implement these provisions, as provided, and would require the local government to submit a copy of this ordinance to the department within 60 days of adoption and the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and a 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.

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

The 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.

(3) 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.

(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.

~~Existing law, the Planning and Zoning Law, requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Under existing law, a part of the housing element is an assessment of housing needs, which includes the locality's share of the regional housing need. Under existing law, the appropriate council of local governments, or for cities without a council of governments, the Department of Housing and Community Development, adopts a final regional housing need plan that allocates a share of the regional housing~~

~~need to each locality in the region. Existing law requires the Board of Directors of the San Francisco Bay Area Rapid Transit District to adopt by ordinance transit-oriented development (TOD) zoning standards for each station that establish minimum zoning requirements for height, density, parking, and floor area ratio that apply to an eligible TOD project, as provided, and authorizes developers of certain eligible TOD projects to submit an application for a development that is subject to a specified streamlined, ministerial approval process, as provided.~~

~~This bill would declare the intent of the Legislature to enact legislation that would make housing more affordable for California families, reduce greenhouse gas emissions, and enhance public transit systems by, among other things, requiring the upzoning of land near rail stations and rapid bus lines to encourage transit-oriented development. The bill would make related findings and declarations.~~

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

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

SECTION 1. Section 54221 of the Government Code is amended to read:

54221. As used in this article, the following definitions shall apply:

(a) (1) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term "district" as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) "Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

(2) "Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for future development, but does not include any specific disposal of land to an identified entity described in the plan.

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with Section 54226.

(4) Notwithstanding paragraph (1), a local agency is not required to make a declaration at a public meeting for land that is "exempt surplus land" pursuant to subparagraph (A), (B), (E), (K), (L), or (Q) of paragraph (1) of subdivision (f) if the local agency identifies the land in a notice that is published and available for public comment, including notice to the entities identified in subdivision (a) of Section 54222, at least 30 days before the exemption takes effect.

(c) (1) Except as provided in paragraph (2), "agency's use" shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency's governing board, for agency work or operations, including, but not limited to, utility sites, property owned by a port that is used to support logistics uses, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, sites for broadband equipment or wireless facilities, *land leased to support public transit operations,* and buffer sites near sensitive governmental uses, including, but not limited to, waste disposal sites, and wastewater treatment plants. "Agency's

use" by a local agency that is a district shall also include land disposed for uses described in subparagraph (B) of paragraph (2).

(2) (A) "Agency's use" shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency's use.

(B) In the case of a local agency that is a ~~district, excepting those whose primary mission or purpose is to supply the public with a transportation system,~~ *district or a public transit operator,* "agency's use" may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency's governing body takes action in a public meeting declaring that the use of the site will do one of the following:

(i) Directly further the express purpose of agency work or operations.

(ii) Be expressly authorized by a statute governing the local agency, provided the district complies with Section 54233.5 if applicable.

(d) (1) "Dispose" means either of the following:

(A) The sale of the surplus land.

(B) The entering of a lease for surplus land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.

(2) "Dispose" shall not mean either of the following:

(A) The entering of a lease for surplus land, which is for a term of 15 years or less, inclusive of any extension or renewal options included in the terms of the initial lease.

(B) The entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

(e) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4 or 37364.

(B) Surplus land that is less than one-half acre in area and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes.

(C) Surplus land that a local agency is exchanging for another property necessary for the agency's use. "Property" may include easements necessary for the agency's use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency, or to a third-party intermediary for future dedication for the receiving agency's use, or to a federally recognized California Indian tribe. If the surplus land is transferred to a third-party intermediary, the receiving agency's use must be contained in a legally binding agreement at the time of transfer to the third-party intermediary.

(E) Surplus land that is a former street, right-of-way, or easement, and is conveyed to an owner of an adjacent property.

(F) (i) Surplus land that is to be developed for a housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(G) (i) Surplus land that is subject to a local agency's open, competitive solicitation or that is put to open, competitive bid by

a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process, for a housing or a mixed-use development that is more than one acre and less than 10 acres in area, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(H) (i) Surplus land totaling 10 or more acres, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute. That surplus land shall be subject to a local agency's open, competitive solicitation process or put out to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process for a housing or mixed-use development.

(ii) The aggregate development shall include the greater of the following:

(I) Not less than 300 residential units.

(II) A number of residential units equal to 10 times the number of acres of the surplus land or 10,000 residential units, whichever is less.

(iii) At least 25 percent of the residential units shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent pursuant to Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental

housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iv) If nonresidential development is included in the development pursuant to this subparagraph, at least 25 percent of the total planned units affordable to lower income households shall be made available for lease or sale and permitted for use and occupancy before or at the same time with every 25 percent of nonresidential development made available for lease or sale and permitted for use and occupancy.

(v) A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph. A local agency shall only dispose of land pursuant to this subparagraph through a disposition and development agreement that includes an indemnification clause that provides that if an action occurs after disposition violates this subparagraph, the person or entity that acquired the property shall be liable for the penalties.

(vi) The requirements of clauses (i) to (v), inclusive, shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(I) A mixed-use development, which may include more than one publicly owned parcel, that meets all of the following conditions:

(i) The development restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) At least 50 percent of the square footage of the new construction associated with the development is designated for residential use.

(iii) The development is not located in an urbanized area, as defined in Section 21094.5 of the Public Resources Code.

(J) (i) Surplus land that is subject to a valid legal restriction that is not imposed by the local agency and that makes housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. A declaration of exemption pursuant to this subparagraph shall be supported by documentary evidence establishing the valid legal restriction. For the purposes of this section, "documentary evidence" includes, but is not limited to, a contract, agreement, deed restriction, statute, regulation, or other writing that documents the valid legal restriction.

(ii) Valid legal restrictions include, but are not limited to, all of the following:

(I) Existing constraints under ownership rights or contractual rights or obligations that prevent the use of the property for housing, if the rights or obligations were agreed to prior to September 30, 2019.

(II) Conservation or other easements or encumbrances that prevent housing development.

(III) Existing leases, or other contractual obligations or restrictions, if the terms were agreed to prior to September 30, 2019.

(IV) Restrictions imposed by the source of funding that a local agency used to purchase a property, provided that both of the following requirements are met:

(ia) The restrictions limit the use of those funds to purposes other than housing.

(ib) The proposed disposal of surplus land meets a use consistent with that purpose.

(iii) Valid legal restrictions that would make housing prohibited do not include either of the following:

(I) An existing nonresidential land use designation on the surplus land.

(II) Covenants, restrictions, or other conditions on the property rendered void and unenforceable by any other law, including, but not limited to, Section 714.6 of the Civil Code.

(iv) Feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

(K) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(L) Land that is subject to either of the following, unless compliance with this article is expressly required:

(i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420, or 81422 of the Education Code.

(ii) Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code.

(M) Surplus land that is a former military base that was conveyed by the federal government to a local agency, and is subject to Article 8 (commencing with Section 33492.125) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iii) Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land pursuant to this subparagraph.

(iv) Before disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency's project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient.

(v) The agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph or the settlement agreement.

(N) Real property that is used by a district for an agency's use expressly authorized in subdivision (c).

(O) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least 100 dwelling units per acre, and includes 100 or more residential units that are restricted to persons and families of low or moderate income, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. For purposes of this subparagraph, not more than 20 percent of the affordable units may be restricted to persons and families of moderate income and at least 80 percent of the affordable units must be restricted to lower income households as defined in Section 50079.5 of the Health and Safety Code.

(P) (i) Land that meets the following conditions:

(I) Land that is subject to a sectional planning area document that meets both of the following:

(ia) The sectional planning area was adopted prior to January 1, 2019.

(ib) The sectional planning area document is consistent with county and city general plans applicable to the land.

(II) The land identified in the adopted sectional planning area document was dedicated prior to January 1, 2019.

(III) On January 1, 2019, the parcels on the land met at least one of the following conditions:

(ia) The land was subject to an irrevocable offer of dedication of fee interest requiring the land to be used for a specified purpose.

(ib) The land was acquired through a land exchange subject to a land offer agreement that grants the land's original owner the right to repurchase the land acquired by the local agency pursuant to the agreement if the land will not be developed in a manner consistent with the agreement.

(ic) The land was subject to a grant deed specifying that the property shall be used for educational uses and limiting other types of uses allowed on the property.

(IV) At least 25 percent of the units are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined by Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, and subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(V) The land is developed at an average density of at least 10 units per acre, calculated with respect to the entire sectional planning area.

(VI) No more than 25 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 25 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VII) No more than 50 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 50 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VIII) No more than 75 percent of the nonresidential square footage identified in the sectional planning area document shall receive its first certificate of occupancy before at least 75 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(ii) The local agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development, including the total square footage of the residential and nonresidential development, the number of residential units that have been permitted, and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(iii) The Department of Housing and Community Development may request additional information from the agency regarding land disposed of pursuant to this subparagraph.

(iv) At least 30 days prior to disposing of land declared "exempt surplus land," a local agency shall provide the Department of Housing and Community Development a written notification of its declaration and findings in a form prescribed by the Department of Housing and Community Development. Within 30 days of receipt of the written notification and findings, the department shall notify the local agency if the department has determined that the local agency is in violation of this article. A local agency that fails to submit the written notification and findings shall be liable for a civil penalty pursuant to this subparagraph. A local agency shall not be liable for the civil penalty if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the written notification and findings. Once the department determines that the declarations and findings comply with subclauses (I) to (IV), inclusive, of clause (i), the local agency may proceed with disposal of land pursuant to this subparagraph. This clause is declaratory of, and not a change in, existing law.

(v) If the local agency disposes of land in violation of this subparagraph, the local agency shall be liable for a civil penalty calculated as follows:

(I) For a first violation, 30 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(II) For a second or subsequent violation, 50 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(III) For purposes of this subparagraph, fair market value shall be determined by an independent appraisal of the land.

(IV) An action to enforce this subparagraph may be brought by any of the following:

(ia) An entity identified in subdivisions (a) to (e), inclusive, of Section 54222.

(ib) A person who would have been eligible to apply for residency in affordable housing had the agency not violated this section.

(ic) A housing organization, as that term is defined in Section 65589.5.

(id) A beneficially interested person or entity.

(ie) The Department of Housing and Community Development.

(V) A penalty assessed pursuant to this subparagraph shall, except as otherwise provided, be deposited into a local housing trust fund. The local agency may elect to instead deposit the penalty moneys into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund. Penalties shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the penalty moneys deposited into the local housing trust fund within five years of deposit for the sole purpose of financing newly constructed housing units that are affordable to extremely low, very low, or low-income households.

(VI) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation

Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(vi) For purposes of this subparagraph, the following definitions apply:

(I) "Sectional planning area" means an area composed of identifiable planning units, within which common services and facilities, a strong internal unity, and an integrated pattern of land use, circulation, and townscape planning are readily achievable.

(II) "Sectional planning area document" means a document or plan that sets forth, at minimum, a site utilization plan of the sectional planning area and development standards for each land use area and designation.

(vii) This subparagraph shall become inoperative on January 1, 2034.

(Q) Land that is owned by a California public-use airport on which residential uses are prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, Chapter 20 -- Compatible Land Use and Airspace Protection.

(R) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

(iii) (I) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.

(II) For the purpose of this clause, the following definitions apply:

(ia) "A contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units" means a

contract described in paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(ib) "A contract or contracts serving as an enforceable restriction on the affordability of rental units" means an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 214 of the Revenue and Taxation Code.

(iv) A copy of the deed restriction or other instrument shall be provided to the assessor.

(S) (i) For local agencies whose primary mission or purpose is to supply the public with a transportation system, surplus land that is developed for commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or for the sole purpose of investment or generation of revenue, if the agency meets all of the following conditions:

(I) The agency has an adopted land use plan or policy that designates at least 50 percent of the gross acreage covered by the adopted land use plan or policy for residential purposes. The adopted land use plan or policy shall also require the development of at least 300 residential units, or at least 10 residential units per gross acre, averaged across all land covered by the land use plan or policy, whichever is greater.

(II) The agency has an adopted land use plan or policy that requires at least 25 percent of all residential units to be developed on the parcels covered by the adopted land use plan or policy made available to lower income households, as defined in Section 50079 of the Health and Safety Code, at an affordable sales price or rented at an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing and 45 years for ownership housing, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. These terms shall be included in the land use plan or policy and dictate that they will be contained in a covenant or restriction recorded against the surplus land at the time of disposition that shall run with the land and be enforceable against any owner or lessee who violates the covenant or restriction and each successor in interest who continues the violation.

(III) Land disposed of for residential purposes shall issue a competitive request for proposals subject to the local agency's open, competitive solicitation process or put out to open, competitive bid by the local agency, provided that all entities identified in subdivision (a) of Section 54222 are invited to participate.

(IV) Prior to entering into an agreement to dispose of a parcel for nonresidential development on land designated for the purposes authorized pursuant to this subparagraph in an agency's adopted land use plan or policy, the agency, since January 1, 2020, must have entered into an agreement to dispose of a minimum of 25 percent of the land designated for affordable housing pursuant to subclause (II).

(ii) The agency may exempt at one time all parcels covered by the adopted land use plan or policy pursuant to this subparagraph.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 before disposing of the surplus land, provided the land does not meet the criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

(g) "Persons and families of low or moderate income" has the same meaning as provided in Section 50093 of the Health and Safety Code.

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

CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT

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

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

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

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

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

(a) "Adjacent" means sharing a property line with a transit station or stop, including any parcels that serve a parking or circulation purpose related to the station or stop.

(b) "Department" means the Department of Housing and Community Development.

(c) "Floor area ratio" means the ratio of net habitable square footage dedicated to residential use to the area of the lot.

(d) "High-frequency commuter rail" means a commuter rail service operating a total of at least six trains per hour during weekday peak periods at any point in the past three years, or with a service plan to implement that frequency in the next three years.

(e) "High-resource area" means a high-resource neighborhood opportunity area, as used in the opportunity area maps published annually by the California Tax Credit Allocation Committee and the department.

(f) "Moderate-frequency commuter rail" means a commuter rail service with a total of at least 24 daily trains per weekday and service frequency below a total of 6 trains per hour during weekday peak periods at any point in the past three years, or with a service plan to implement that frequency in the next three years.

(g) "Net habitable square footage" means the finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and one-half feet, including working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding

garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements.

(h) "Rail transit" has the same meaning as defined in Section 99602 of the Public Utilities Code.

(i) "Tier 1 transit-oriented development stop" means a transit-oriented development stop served by rail transit, as defined in Section 99602 of the Public Utilities Code, including, but not limited to, high-frequency commuter rail and light rail transit that uses fixed guideway facilities immediately adjacent to the transit-oriented development stop, excluding those rail transit services defined as part of Tier 2 or 3.

(j) "Tier 2 transit-oriented development stop" means a transit-oriented development stop served by light rail transit run by a public transit operator that uses fixed guideway facilities that are not grade separated immediately adjacent to the transit-oriented development stop, or fixed guideway or nonfixed guideway bus service with frequencies of 15 minutes or better that uses transit priority lanes for some or all of the route.

(k) "Tier 3 transit-oriented development stop" means a transit-oriented development stop served by moderate-frequency commuter rail service or ferry service.

(l) "Transit-oriented development stop" means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding any stop served by rail transit with a frequency of fewer than 10 total trains per weekday.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) For a residential development within one-half mile of a Tier 3 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 45 feet high, or up to the local height limit, whichever is greater.

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

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

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

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

(d) A local government that denies a project meeting of 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 liable for penalties pursuant to subparagraph (B) of paragraph (1) of subdivision (k) of Section 65589.5, unless the local government demonstrates substantial evidence that it has a health, life, or safety reason for denying the project.

65912.158. 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 objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.

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

(a) 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.

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

65912.160. (a) The department shall oversee compliance with this chapter, including, but not limited to, promulgating standards

on how to account for capacity pursuant to this chapter in a city or county's inventory of land suitable for residential development, pursuant to Section 65583.2.

(b) (1) A local government may adopt an ordinance to implement the provisions of this chapter, which may include revisions to applicable zoning requirements on individual sites within a transit-oriented development zone, provided that those revisions maintain the average density allowed for the applicable tier, or up to a 100-percent increase, subject to review by the department pursuant to paragraph (3).

(2) An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) (A) A local government shall submit a copy of any ordinance adopted pursuant to this section to the department within 60 days of adoption.

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

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

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

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

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

65912.161. The Legislature finds and declares that the state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing, and solving the housing crisis therefore requires a multifaceted, statewide approach, including, but not limited to, encouraging an increase in the overall supply of housing, encouraging the development of housing that is affordable to households at all income levels, removing barriers to housing production, expanding homeownership opportunities, and expanding the availability of rental housing, and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

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

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

(b) This division shall not apply to 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 that includes at least one of the following:

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

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

(3) An agreement between the project applicant and public transit agency that owns the land or has the permanent operating easement to finance transit capital infrastructure, transit maintenance, or transit operations, including through a proposed

public financing district, community financing district, or tax increment generated by the project.

(c) If a project described in subdivision (b) 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, then that project shall be considered a wholly separate project from the project described in subdivision (b) and shall not be exempt from this division. Any required environmental review shall not affect or render invalid the exemption provided in subdivision (b), regardless of whether the project described in subdivision (b) cannot proceed unless the offsite facilities are constructed.

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

~~SECTION 1. (a) It is the intent of the Legislature to enact legislation that makes housing more affordable for California families, reduces greenhouse gas emissions, and enhances public transit systems.~~

~~(b) Specifically, it is the intent of the Legislature that the legislation described in subdivision (a) do all of the following:~~

~~(1) Require the upzoning of land near rail stations and rapid bus lines to encourage transit-oriented development.~~

~~(2) Ensure that the degree of upzoning is proportional to the capacity of the adjacent transit network and the distance to transit stations, thereby maximizing the use of public transit infrastructure.~~

~~(3) Integrate upzoning provisions into local jurisdictions' housing elements to align with statewide housing goals and promote compliance with the regional housing need allocation process.~~

~~(4) Support transit agencies in increasing and diversifying their revenue sources beyond existing public subsidies and fare revenue either in this bill or in subsequent legislation, ensuring sustainable funding for operational and capital improvements necessary to meet increased demand resulting from upzoning initiatives.~~

~~SEC. 2. (a) The Legislature finds and declares the following:~~

~~(1) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.~~

~~(2) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.~~

~~(3) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state's major transit agencies' operations costs than other states with comparable systems.~~

~~(b) Therefore, it is the intent of the Legislature to address these challenges by enacting legislation to do the following:~~

~~(1) Establishing a framework for transit-based upzoning that is sensitive to the capacity of existing and planned transit infrastructure.~~

~~(2) Supporting local jurisdictions in integrating these upzoning requirements into their housing elements as part of their general plans.~~

~~(3) Allowing local jurisdictions to be exempt from the upzoning provisions if they adopt higher intensity or more permissive zoning standards than those set by state law.~~

~~(4) Ensuring that all eligible parcels may also benefit from the streamlining provisions under Section 65913.4 of the Government Code, provided they meet the labor, environmental, and other relevant standards outlined in the statute.~~

~~(5) Granting transit agencies the authority to set residential and commercial zoning standards on properties they own or have a permanent operating easement on, provided that the residential and commercial zoning standards are higher intensity and more permissive than the zoning standards set by the local government.~~

~~SEC. 3. In enacting the legislation described in Section 1, it is further the intent of the Legislature to do the following:~~

~~(a) Consult with local governments, regional planning agencies, transit operators, housing advocates, environmental groups, and other stakeholders to develop effective and equitable upzoning criteria.~~

~~(b) Require local jurisdictions to adopt and implement these transit-based upzoning policies in a timely and effective manner.~~

~~(c) Monitor and evaluate the outcomes of transit-based upzoning policies to ensure alignment with the state's housing, environmental, and transportation goals.~~

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SB 239 (Arreguín) Analysis and Recommendation

TITLE: Open meetings: teleconferencing: subsidiary body.
AUTHOR: Senator Arreguín (D-Berkeley)
SPONSOR: League of California Cities, California Association of Counties
RECOMMENDATION: Support

BACKGROUND: Assembly Bill (AB) 2449 (Chapter 285, Statutes of 2022) authorizes, until January 1, 2026, a legislative body of a local agency to use alternative teleconferencing in specified circumstances if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, that is open to the public, and situated within the boundaries of the territory over which the local agency exercises jurisdiction. The bill allows for a member of the legislative body to participate remotely for "just cause" and "emergency circumstances" without noticing their teleconference location or making that location public.

These requirements also extend to non-decision-making bodies of local agencies. These advisory or subsidiary bodies often exist to amplify community voices on a range of issues. However, they struggle to convene due to ongoing challenges in establishing a quorum and recruiting and retaining members of the community to serve. In the previous legislative session, AB 817 (Pacheco) was introduced and would have allowed for members of advisory bodies that are not empowered with decision-making authority to use teleconferencing without complying with certain requirements of the Brown Act related to identifying and posting agendas at each teleconference location, public accessibility, and quorum. The BART Board supported AB 817, but it failed passage in the Senate Committee on Local Government.

PURPOSE: Senate Bill (SB) 239 would authorize a subsidiary body of a local agency to use alternate teleconferencing provisions related to notice, agenda, and public participation. The bill would require the subsidiary body to post the agenda at the primary physical meeting location, have members visibly appear on camera during the open portion of a meeting, and note in the meeting minutes members who participate remotely. For a subsidiary body to use these alternative teleconferencing provisions, the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action, would first need to make specified findings by a majority vote and do so every 12 months thereafter. The subsidiary body must also approve the use of the alternative teleconference provisions by a two-thirds vote.

Subsidiary bodies that have subject matter jurisdiction over police oversight, elections, or budgets would not be allowed to utilize these provisions. Additionally, an elected official who is a member of a subsidiary body must comply with existing Brown Act requirements. All final recommendations adopted by the subsidiary body must also be presented at a regular meeting of the larger legislative body.

DISTRICT IMPACT: SB 239 would allow applicable Brown Act subsidiary bodies within BART, such as certain advisory committees, advisory councils, and task forces, to utilize alternative teleconferencing provisions while still providing a means for the public to observe and provide public comment. The alternative teleconferencing provisions established by this bill would address ongoing recruitment issues for advisory bodies and avoid the need to cancel meetings due to the lack of an in-person quorum.

KNOWN SUPPORT/OPPOSITION: Support: League of California Cities (Sponsor), California Association of Counties (Sponsor), Association of Bay Area Governments, Metropolitan Transportation Commission, California Transit Association, California Special Districts Association, City Clerks Association of California, Urban Counties of California, Rural County Representatives of California, California Association of Councils of Governments, California Association of Recreation and Park Districts, Disability Rights California, Association of California School Administrators, California Association of

Public Authorities for IHSS, and the Counties of Contra Costa, Monterey, Riverside, and Yolo. No opposition known at this time.

STATUS: Referred to the Senate Committees on Local Government and Judiciary. Awaiting a hearing date to be set in Local Government.

SENATE BILL No. 239

Introduced by Senator Arreguín

January 30, 2025

An act to add Section 54953.05 the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as introduced, Arreguín. Open meetings: teleconferencing: subsidiary body.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as specified.

Existing law, until January 1, 2026, authorizes specified neighborhood city councils to use alternate teleconferencing provisions related to notice, agenda, and public participation, as prescribed, if, among other requirements, the city council has adopted an authorizing resolution and ⅔ of the neighborhood city council votes to use alternate teleconference provisions, as specified.

This bill would authorize a subsidiary body, as defined, to use alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. The bill

would require the subsidiary body to post the agenda at the primary physical meeting location. The bill would require the members of the subsidiary body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as specified. The bill would also require the subsidiary body to list a member of the subsidiary body who participates in a teleconference meeting from a remote location in the minutes of the meeting.

The bill would require the legislative body that established the subsidiary body electing to use teleconferencing pursuant to these provisions to establish the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter. The bill would require the subsidiary body to approve the use of teleconference by $\frac{2}{3}$ vote before using teleconference pursuant to these provisions.

The bill would exempt from these alternative teleconferencing provisions a subsidiary body that has subject matter jurisdiction over police oversight, elections, or budgets. The bill would require any member of a subsidiary body who is an elected official to comply with specified agenda and quorum requirements to participate in a meeting through teleconferencing pursuant to this section, and would require any final recommendations adopted by a subsidiary body to be presented at a regular meeting of the legislative body that established the subsidiary body.

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 local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

SECTION 1. Section 54953.05 is added to the Government Code, to read:

54953.05. (a) (1) The definitions in Section 54953, as that section may be amended from time to time, apply for purposes of this section.

(2) For purposes of this section, "subsidiary body" means a legislative body that meets all of the following:

(A) Is described in subdivision (b) of Section 54952.

(B) Serves exclusively in an advisory capacity.

(C) Is not authorized to take final action on legislation, regulations, contracts, licenses, grants, permits, or other entitlements.

(b) A subsidiary body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953, if the subsidiary body complies with all of the following:

(1) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the subsidiary body.

(2) Each member of the subsidiary body shall participate through both audio and visual technology.

(3) The subsidiary body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the subsidiary body:

(A) A two-way audiovisual platform.

(B) A two-way telephonic service and a live webcasting of the meeting.

(4) The subsidiary body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(5) The subsidiary body shall designate a primary physical meeting location where members of the public may physically attend, observe, hear, and participate in the meeting. At least one staff member of the subsidiary body shall be present at the primary physical meeting location during the meeting. The subsidiary body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(6) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the

meeting is otherwise posted, the subsidiary body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(7) The agenda shall identify and include an opportunity for all persons to attend and address the subsidiary body directly pursuant to Section 54954.3 via a call-in option or via an internet-based service option.

(8) In the event of a disruption that prevents the subsidiary body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the subsidiary body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the subsidiary body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the subsidiary body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(9) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the subsidiary body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(10) The members of the subsidiary body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.

(A) The visual appearance of a member of the subsidiary body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a subsidiary body on camera to cease.

(B) If a member of the advisory body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.

(C) A member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(11) The subsidiary body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the subsidiary body and offer comment in real time.

(A) A subsidiary body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to paragraph (9), to provide public comment until that timed public comment period has elapsed.

(B) A subsidiary body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to paragraph (9), or otherwise be recognized for the purpose of providing public comment.

(C) A subsidiary body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to paragraph (9), until the timed general public comment period has elapsed.

(12) A member of the subsidiary body who participates in a teleconference meeting from a remote location shall be listed in the minutes of the meeting.

(c) In order to use teleconferencing pursuant to this section, the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action shall make the following findings by majority vote before the subsidiary body uses teleconferencing pursuant to this section for the first time, and every 12 months thereafter:

(1) The legislative body has considered the circumstances of the subsidiary body.

(2) Teleconference meetings of the subsidiary body would enhance public access to meetings of the subsidiary body.

(3) Teleconference meetings of the subsidiary body would promote the attraction, retention, and diversity of subsidiary body members.

(d) The legislative body shall approve the use of teleconferencing by two-thirds vote before using teleconference pursuant to this section.

(e) This section shall not apply to a subsidiary body that has subject matter jurisdiction over police oversight, elections, or budgets.

(f) Notwithstanding subdivision (b), any member of a subsidiary body who is an elected official shall comply with paragraph (3) of subdivision (b) of Section 54953 to participate in a meeting through teleconferencing pursuant to this section.

(g) Any final recommendations adopted by a subsidiary body shall be presented at a regular meeting of the legislative body that established the subsidiary body.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 54953.05 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:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 54953.05 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to provide opportunities for public participation in meetings of specified public agencies and to promote the attraction and retention of members of those agencies.

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SB 276 (Wiener) Analysis and Recommendation

TITLE: City and County of San Francisco: merchandising sales
AUTHOR: Senator Wiener (D-San Francisco)
COAUTHORS: Assemblymembers Haney (D-San Francisco) and Stefani (D-San Francisco)
SPONSOR: San Francisco Mayor Daniel Lurie
RECOMMENDATION: Support

BACKGROUND: Senate Bill (SB) 946 (Chapter 459, Statutes of 2018), known as the "Safe Sidewalk Vending Act," decriminalized the vending of goods on public sidewalks and pedestrian paths and prohibited criminal penalties for violations of sidewalk vending ordinances.

In the Mission Street corridor of San Francisco, sidewalk vending has become an increasing concern for community members, local businesses, BART, and a multitude of city and county departments. Specifically, the illegal purchasing and vending (or "fencing") of stolen goods has negatively impacted brick-and-mortar businesses and permitted street vendors, who are being pushed out and face threats of violence. The illegal activities also negatively affect the health, safety, and welfare of pedestrians, BART riders, and city workers.

The situation has become so severe that San Francisco issued a moratorium on street vending in certain areas. The moratorium has been extended multiple times, though a pilot program has been implemented to allow a limited number of licensed vendors on Mission Street between 23rd and 24th Streets and 24th and 25th Streets.

Before the moratorium, BART permitted two vendors for the northwest and southeast plazas at 24th Street Mission Station. Enforcement was provided by the BART Police Department. BART was in the process of entering into a master vendor agreement with Calle 24, a nonprofit in the Mission District, but in order to support the city's efforts to curtail illegal fencing, BART has not executed the master agreement and has aligned its vending policies to conform with current city policy.

PURPOSE: SB 276 is a reintroduction of legislation by Senator Wiener from last session, SB 925, which the Board supported. The bill authorizes the City and County of San Francisco to adopt, for a period of up to three years, an ordinance requiring vendors to obtain a permit to sell merchandise that has been determined by the city to be often obtained through retail theft. The city would be required to identify an agency that is responsible for administering the permit system that is not the San Francisco Police Department.

The bill establishes that selling these items without a permit is punishable as an infraction and that subsequent violations after two prior convictions can be charged as either an infraction or a misdemeanor punishable by imprisonment in the county jail for a period up to six months. The bill's provisions do not apply to the selling of non-prepackaged food (with or without a permit). The authorization provided by the bill expires on January 1, 2034.

DISTRICT IMPACT: The vending of stolen goods has affected public safety and quality of life in areas around BART stations. Over the years, BART's response to the crisis in the Mission District has included temporary fencing of the plazas, increased presence and outreach by the BART Police Department, more frequent station cleaning, and ongoing coordination with various city departments and elected offices.

Under current law (Penal Code Section 602.7), BART Police can cite a person with an infraction who is selling or peddling goods or services on BART property, such as our station plazas, or on our trains without authorization. However, current law does not allow for criminal citations for unauthorized vending on the public sidewalks in the areas surrounding our stations. This bill offers a tool for our law enforcement partners

in San Francisco to address dangerous situations associated with the attempted fencing of stolen goods on the city-maintained public sidewalks outside our property.

KNOWN SUPPORT/OPPOSITION: Support: San Francisco Mayor Daniel Lurie (Sponsor);
No opposition currently known.

STATUS: Referred to Senate Committees on Local Government, Public Safety and Appropriations. Set for hearing in Local Government on March 19.

SENATE BILL No. 276

Introduced by Senator Wiener
(Coauthors: Assembly Members Haney and Stefani)

February 4, 2025

An act to add and repeal Section 53076.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, as introduced, Wiener. City and County of San Francisco: merchandising sales.

Under existing law, knowingly buying or receiving stolen property or property that has been obtained in any manner constituting theft or extortion, as specified, is punishable as either a misdemeanor or a felony if the value of the property exceeds $950.

Existing law prohibits a local authority from regulating sidewalk vendors, except in accordance with certain provisions, including that a local authority may, by ordinance or resolution, adopt requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns.

This bill, until January 1, 2034, would authorize the City and County of San Francisco to adopt an ordinance prohibiting the sale of specified merchandise on public property without a permit, if the ordinance includes specified written findings, including, among other things, that there has been a significant pattern of merchandise being the subject of retail theft and then appearing for sale on public property within the City and County of San Francisco. The bill would require an ordinance adopted by the City and County of San Francisco to, among other things, identify a local permitting agency that is responsible for administering a permit system. The bill would authorize the ordinance to provide that

selling merchandise without a permit is punishable as an infraction, and that subsequent violations after 2 prior convictions is an infraction or a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months.

This bill would require, if an ordinance is adopted, the City and County of San Francisco to submit a report to the Legislature by January 1, 2033, that includes specified information, including, among other things, the list or lists of merchandise that the City and County of San Francisco determined was a common target of retail theft. The bill would require the City and County of San Francisco to administer a public information campaign for at least 30 calendar days prior to the enactment of the ordinance, including public announcements in major media outlets and press releases.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

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

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

SECTION 1. Section 53076.5 is added to the Government Code, to read:

53076.5. (a) Notwithstanding Section 51037, the City and County of San Francisco may adopt an ordinance requiring a permit for the sale, on public property, including public streets or sidewalks, of merchandise that the City and County of San Francisco has determined is a common target of retail theft. Merchandise shall not include food items, unless those food items are prepackaged and not prepared for sale onsite. If the city and county passes an ordinance pursuant these provisions, the ordinance shall include all of the following written findings:

(1) That there has been a significant pattern of merchandise being the subject of retail theft and then appearing for sale on public property within the City and County of San Francisco.

(2) That requiring a permit to sell will further the objective of preventing retail theft.

(3) That there are reasonable permit requirements to enable the lawful sale of merchandise and to safeguard civil rights.

(b) An ordinance adopted pursuant to this section may remain in effect for up to three years, subject to annual renewal of the written findings.

(c) (1) An ordinance adopted pursuant to this section shall identify a local permitting agency, separate from the San Francisco Police Department, that shall be responsible for administering a permit system.

(2) The permitting agency shall adopt rules and procedures for administering the permit system.

(3) The permitting agency shall issue permits to persons who are able to demonstrate that they obtained the merchandise lawfully and not through theft or extortion.

(d) An ordinance may provide that selling merchandise without a permit is punishable as an infraction, and that subsequent violations after two prior convictions are infractions or misdemeanors punishable by imprisonment in the county jail not exceeding six months.

(e) (1) If an ordinance is adopted pursuant to this section, the City and County of San Francisco shall, by January 1, 2033, submit a report to the relevant committees of the Legislature that includes all of the following:

(A) The local permitting agency that was made responsible for administering the permit system.

(B) The rules and procedures the permitting agency adopted for administering the permit system.

(C) The list or lists of merchandise that the City and County of San Francisco determined was a common target of retail theft.

(D) Whether the City and County of San Francisco elected to renew its ordinance and, if so, when.

(E) The total number of permits issued pursuant to this section.

(F) The method by which the local permitting agency determined whether an applicant for a permit was able to demonstrate that they obtained merchandise lawfully and not through theft or extortion.

(G) The total number of infractions and misdemeanors issued, and the number for which convictions were reached.

(H) The perceived race or ethnicity, gender, and age of the person issued an infraction or misdemeanor, provided that the identification of these characteristics was solely based on the

observation and perception of the local authority who issued the infraction or misdemeanor.

(I) The actions taken by a local authority when issuing infractions or misdemeanors, including, but not limited to, all of the following:

(i) Whether the local authority asked for consent to search the person, and, if so, whether consent was provided.

(ii) Whether the local authority searched the person or any property, and, if so, the basis for the search and any contraband or evidence discovered.

(iii) Whether the local authority seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(2) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(f) The City and County of San Francisco shall administer a public information campaign for at least 30 calendar days prior to the enactment of an ordinance pursuant to this section, including public announcements in major media outlets and press releases.

(g) This section shall not be construed to affect the applicability of other state or local laws, including, but not limited to, Section 496 of the Penal Code.

(h) This section shall become inoperative on January 1, 2034, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the need to address the issues relative to fencing and retail theft operations in the City and County of San Francisco.

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