



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 79 – TOD Upzoning and Transit Agency Land Use Authority

#### **SUMMARY**

Senate Bill 79 allows more housing development near major public transportation stops by upzoning land within ½ mile of specified major transit stops. Specifically, SB 79 allows multifamily housing up to a specified height, density, and floor area ratio on residential, mixed use, and commercial land near rail and bus rapid transit. These development standards vary based on proximity, transit quality, and status as an "urban transit county" with more than 15 rail stations. The bill also provides transit agencies with the land use authority to develop residential and commercial projects on certain land they control.

Transit-oriented development projects under SB 79 are eligible for the streamlined ministerial approvals process under Senate Bill 423 (Wiener, 2023) if they meet the law's environmental, labor, and affordability standards.

#### **BACKGROUND/EXISTING LAW**

Existing law under SB 375 (Steinberg, 2005) encourages coordination of housing and transportation policy, with greater land use intensity and more housing near transit. Additionally, under AB 2097 (Friedman, 2022) and AB 2011 (Wicks, 2022), existing law preempts certain local land use restrictions that limit housing near transit and allows greater densities near transit.

Existing law, under AB 2923 (Chiu, 2018), requires cities and counties to adopt the zoning standards in the San Francisco Bay Area Rapid Transit District's (BART) TOD guidelines and establishes a streamlined approval process for certain projects on BART-owned land. Existing law also establishes a streamlined, ministerial

process for approving housing developments that are in compliance with the applicable objective state and local planning standards.

Several states have already made transit-oriented development easier. Washington recently required cities to zone for an average floor area ratio (FAR) of 2.5-3.5 around rail & bus rapid transit (BRT). Colorado requires cities to zone for an average of 40 dwelling units per acre within a quarter-mile of transit, and Massachusetts also requires cities served by MBTA rail to meet minimum zoning standards around those transit stations.

#### **PROBLEM**

California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure. Restrictive zoning in existing communities forces development into sprawl – increasing traffic and pollution, and accelerating the loss of open space and farmland. Building more homes near transit reduces transportation and housing costs for California families, promotes environmental sustainability and economic growth, and reduces traffic congestion.

Public transit systems require sustainable funding to provide reliable service, especially in areas with increased density and ridership. California does not invest in public transit service to the same degree as it does in roads, and 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 TOD at and near their stations. SB 79 does not provide for broad land use authority, but it gives them authority to build both TOD housing and

commercial development to energize the area around the station, create more ridership, and generate revenue for the transit system.

The housing crisis itself has had a direct impact on transit ridership. According to a UCLA study<sup>1</sup> an increase of \$230 per month in rent led to 22% less transit use by the neighborhood.

Although California has made progress in making TOD easier, most areas within a half-mile of transit are essentially off-limits to TOD – whether they are not zoned for five or more units and thus do not qualify for state density bonus law (SDBL), or they are zoned commercial and not residential.<sup>2</sup>

Although many regional transit authorities have TOD goals and own the land next to their station, there are permitting, rezoning, and public funding barriers to build deed restricted housing results in these agencies struggling to realize their TOD goals. Building housing on transit authority land will increase ridership and revenue, which will generate sustainable funding for the transit agency.

## SOLUTION

Senate Bill 79 establishes state standards for transit oriented zoning around qualifying transit stops (designated as “TOD stops”). SB 79 authorizes specified heights and densities on parcels near qualifying transit stops based on the capacity of the transit service at the station, categorized as follows:

**Tier 1:** Major transit stops served by:  
Heavy rail transit (**e.g. BART and LA Metro B & D Lines**)  
Very high frequency commuter rail (72+ daily trains) (**e.g. Caltrain stations**)

**Tier 2:** Major transit stops served by:  
Light rail transit (**e.g. Sac RT and SF Muni**)

High frequency commuter rail (48+ daily trains)  
(**e.g. certain Metrolink stations**)  
Bus rapid transit (with a dedicated lane)

**Tier 3:** Major transit stops served by:  
Frequent commuter rail transit (24+ daily trains)  
(**e.g. SMART Rail**)  
Ferry service

The height limits per Tier are as follows\*:

**Tier 1:** 9 stories adjacent to the stop, 7 stories within ¼ mile, 6 stories between ¼ and ½ mile

**Tier 2:** 8 stories adjacent to the stop, 6 stories within ¼ mile, 5 stories between ¼ and ½ mile

**Tier 3:** 7 stories adjacent to the stop, 5 stories within ¼ mile, 4 stories within ¼ and ½ mile\*

Within an urban transit county (a county with more than 15 rail stations), all the three Tiers apply. Outside of an urban transit county, TOD stops only qualify under Tier 3, and development within the second quarter mile is limited to the existing local height limit.

All SB 79 projects are subject to the following requirements:

- 1. Affordability:** SB 79 projects are subject to either the local inclusionary requirements under a local inclusionary ordinance, or the affordability requirements established in AB 1893 (Wicks, 2023): 7% ELI, 10% VLI, or 13% LI.
- 2. Minimum Density:** SB 79 projects must include the greater of: at least 5 units, a density of 30 du/acre, or the minimum density allowed under local zoning (if applicable).
- 3. Average Unit Size:** The average total area of floorspace for the proposed units in an SB 79 development shall not exceed 1,750 net habitable sq. ft.

<sup>1</sup> [Neighborhood Change and Transit Ridership](#) (Manville et al, UCLA)

<sup>2</sup> California YIMBY

- 4. Demolition protections:** All SB 79 projects are subject to the anti-displacement protections provided under SB 330 and the Housing Crisis Act<sup>3</sup>, subject to any local anti-displacement or demolition protections, and prohibited from being located on sites containing more than two units that requires the demolition of rent or priced controlled housing that has been occupied by tenants within the past 5 years and sites previously used for more than 2 units of housing (any of which were subject to rent or price control) that were demolished within 5 years before the development proponent submits an SB 79 application.

SB 79 provides local governments with the flexibility to tailor the law via a “local alternative plan” through an amendment to their Housing and Land Use Elements, reviewed by HCD. A local alternative plan would be required to maintain the same total increase in zoned capacity as provided for under SB 79, and allow at least a minimum density on all residential parcels near qualifying transit oriented development stops. Within those constraints, cities would be able to adjust allowed densities and heights, as well as designate additional transit oriented development areas.

SB 79 also provides transit agencies with land use authority to develop land they control. This development must be adjacent to a TOD stop, or within a half mile of a TOD stop for land the transit agency owned as of 1/1/26. Transit agencies may also vote to designate additional major transit stops for development under this authority. Development on transit-agency owned land may be limited to the heights set by SB 79’s adjacency bonus. This added authority provides urgently needed funding for California’s public transportation systems, giving them tools to sustain themselves and thrive.

SB 79 projects that meet the affordability, environmental, and labor standards of SB 423 (Wiener, 2023) qualify for streamlining under that law. Otherwise, TODs under SB 79 will go through local review and CEQA as they do under current law.

#### **SUPPORT**

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- **Bay Area Council** (co-sponsor)
- **California YIMBY** (co-sponsor)
- **Greenbelt Alliance** (co-sponsor)
- **Inner City Law Center (ICLC)** (sponsor)
- **SPUR** (co-sponsor)
- **Streets For All** (co-sponsor)
- 21<sup>st</sup> Century Alliance
- AARP
- Abundance Network
- Abundant Housing LA
- Accelerate Neighborhood Climate Action
- Active San Gabriel Valley
- Alameda-Contra Costa Transit District (AC Transit)
- All Voting Members of the North Westwood Neighborhood Council
- American Institute of Architects California
- Bike Culver City
- Bike East Bay
- Bike Long Beach
- Bike San Diego
- Brian Barnacle – Council Member, Petaluma
- The Board of the Costa Mesa Alliance for Better Streets
- Business for Good San Diego
- CalBike
- California Apartment Association
- California Asian Chamber of Commerce
- California Community Builders

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<sup>3</sup> YIMBY Action

- California Council for Affordable Housing
- California Democratic Party Rural Caucus
- California Nightlife Association
- Car-Lite Long Beach
- Circulate San Diego
- City of Culver City
- City of Emeryville
- City of San Diego
- City of Santa Monica
- City of West Hollywood
- **City of Berkeley Councilmember Rashi Kesarwani**
- **City of Chico Councilmember Addison Winslow**
- **City of Claremont Councilmember Jed Leano**
- **City of El Cerrito Councilmember Rebecca Saltzman**
- **City of Emeryville Councilmember Matthew Solomon**
- **City of Gilroy Councilmember Zach Hilton**
- **City of Mount Shasta, Councilmember Casey Glaubman**
- **City of Mountain View Councilmember Lucas Ramirez**
- **City of Petaluma Councilmember Brian Barnacle**
- **City of Santa Monica Councilmember Jesse Zwick**
- **City of South San Francisco Councilmember James Coleman**
- Climate Action Campaign
- Climate Hawks Vote
- Common Ground California
- Council of Infill Builders
- Culver City Democratic Club
- East Bay for Everyone
- East Bay Leadership Council
- East Bay YIMBY
- Environmental Protection Information Center - EPIC
- Everybody's Long Beach
- Families for Safe Streets San Diego
- Fieldstead and Company, Inc.
- **Foster City Councilmember Phoebe Shin Venkat**
- Fremont For Everyone
- Glendale YIMBY
- Grow the Richmond
- Hammond Climate Solutions Foundation
- House Sacramento
- Housing Action Coalition
- Housing Leadership Council of San Mateo County
- Housing Trust Silicon Valley
- Jamboree Housing Corporation
- Inclusive Lafayette
- Indivisible Claremont/Inland Valley
- Indivisible Sacramento
- LeadingAge California
- Local Initiatives Support Corporation, San Diego (LISC SD)
- **Mayor of Campbell, Sergio Lopez**
- Mountain View YIMBY
- Napa-Solano for Everyone
- National Independent Venue Association of California
- Natural Resources Defense Council
- New Way Homes
- Non-Profit Housing (NPH) Association of Northern California
- Northern Neighbors
- Orange County Business Council
- Orchard City Indivisible
- Our Time to Act
- Pathway to Tomorrow
- Peninsula for Everyone
- People for Housing – Orange County
- Redlands Area Democratic Club
- Redlands YIMBY
- Prosperity California

- Remake Irvine Streets for Everyone
- Ride SD
- **Sacramento City Councilmember Caity Maple**
- Sacramento Housing Alliance
- San Bernardino County Young Democrats
- San Mateo County Economic Development Association (SAMCEDA)
- San Diego County Bicycle Coalition
- San Fernando Valley Young Democrats
- San Fernando Valley For All
- San Francisco YIMBY
- Santa Clara County Valley Transportation Authority
- Santa Cruz YIMBY
- Santa Rosa YIMBY
- Sierra Business Council
- Silicon Valley Leadership Group
- South Bay YIMBY
- South Pasadena Residents for Responsible Growth
- South Pasadena Tenants Union
- State Superintendent of Public Instruction Tony Thurmond
- Streets Are For Everyone (SAFE)
- Strong Towns Poway & RB
- Strong Towns San Diego
- Student Homes Coalition
- University of California Student Association
- UC San Diego Housing Commission
- **United States Congressman Scott Peters, CA-50**
- U.S. Green Building Council California (USGBC-CA)
- United Way Bay Area
- Valley Industry and Commerce Association (VICA)
- Ventura County YIMBY
- **Vice Mayor Mark Dinan - City of East Palo Alto**

- **Vice Mayor Laura Nakamura – City of Concord**
- **Vice Mayor Alexander Pedersen - City of Capitola**
- **Vice Mayor Emily Ann Ramos - City of Mountain View**
- Walk Bike Berkeley
- Walk San Francisco
- Westside for Everyone
- Wildlands Network
- WPH Holdings, LLC
- YIMBY Action
- YIMBY Democrats of San Diego County
- YIMBY Los Angeles
- YIMBY San Luis Obispo
- Zillow

**\*Bolded are Elected Officials**

#### **FOR MORE INFORMATION**

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