



- 4) Defines a transit-oriented joint development project as a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed transit facilities and is located 1/4 mile or less from the external boundaries of that facility. States that any transit-oriented joint development project shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

#### *Employee Rental Housing Act*

- 5) Defines “employee” as an employee of the local agency, the state or any political subdivision thereof, special district, including a school district, or any other local government entity, or an employee of a public or private utility whom the legislative body has determined performs a function essential to the public health, safety or welfare.
- 6) Defines “housing” as any dwelling or residential structure, including, but not limited to, single-family detached dwellings, multi-family dwellings or modular housing or mobilehomes. “Housing” also means a park or other site or facility suitable for modular housing or mobilehomes, and such park or other site or facility may include pads or other foundations, utility connections, and other appropriate on-site improvements.
- 7) Defines “local agency” as a city, a city and county or a county.
- 8) Authorizes a local agency to construct or cause to be constructed rental housing for employees and issue bonds for the purposes of constructing rental housing for employees and funding or refunding previously issued bonds.

#### *Fair Housing laws*

- 9) Enacts the Unruh Civil Rights Act, which specifically outlaws discrimination in California based on sex, race, color, religion, ancestry, national origin, age, disability, medical condition, genetic information, marital status, or sexual orientation.
- 10) Enacts the Fair Employment and Housing Act, which prohibits the existence of a restrictive covenant that makes housing opportunities unavailable based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income or ancestry.

**This bill:**

- 1) Defines "employee housing project" as a housing development project with five or more units for VTA employees that is undertaken in connection with existing, planned, or proposed transit facility and is located ½ mile or less from the external boundaries of that facility.
- 2) Expands the definition of a "transit-oriented joint development project" to be located within ½ mile (up from ¼ mile) or less from the external boundaries of that facility.
- 3) Specifies that VTA may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without boundaries of the VTA necessary for incidental, or convenient for both of the following:
  - a) Transit-oriented joint development projects; and,
  - b) Employee housing projects.
- 4) States that any transit-oriented development project or employee housing project created under this section shall comply with applicable land use and zoning regulations of the city, county, or city and county in which the project is located.
- 5) States that for the purposes of a transit-oriented joint development project or employee housing project, the VTA may acquire, plan, undertake, construct, improve, develop, maintain, operate, or dispose of any real or personal property.
- 6) Authorizes VTA to construct rental housing for VTA employees pursuant to the Employee Rental Housing Act, and shall, for that purpose, be considered a local agency. If the VTA constructs rental housing pursuant to this paragraph, the units shall be affordable to lower or moderate-income households for a minimum of 55 years. This requirement shall be recorded as a deed restriction.
- 7) Authorizes VTA to construct for-sale housing that promotes housing opportunities for VTA employees. If the VTA constructs for-sale housing pursuant to this paragraph, the units shall be affordable too lower or moderate-income households for a minimum of 45 years. This requirement shall be recorded as a deed restriction.
- 8) Authorizes VTA to accept, without limitation by any other provisions of this part requiring approval of indebtedness, contributions, grants, or loans from any

public agency or the United States or any department, instrumentality, or agency thereof, for the purpose of financing the acquisition, construction, maintenance, or operation of transit-oriented joint development projects or employee housing.

## Comments

- 1) *Author's statement.* "Santa Clara County is one of the most expensive counties to live in the nation, and while it is home to our booming tech industry, working-class people who support and operate our public transportation system are faced with the high cost of living in one of the most expensive housing markets. Santa Clara Valley Transportation Authority (VTA) employs approximately 2,300 people who manage and operate the county's public transportation. However, the cost of housing has increased, resulting in VTA workers being priced out of the housing market and leading them to move outside of the city or county. Many VTA workers commute more than one to two hours each way in addition to their eight-hour shift, which can add up to more than 12 hours per day behind the wheel. This creates a level of risk for workers and the public. AB 2263 builds on existing statutes for cities and counties to build employee housing. This will allow workers to live in the city where they work, significantly reduce their commutes, and overall reduce driver fatigue for transit workers, which can help the overall safety of everyday drivers and pedestrians."
- 2) *Allowing employee housing on more public lands.* Existing law, pursuant to the Employee Rental Housing Act, authorizes cities and counties to develop employee rental housing on their land. Recent legislation, including AB 2295 (Bloom, Chapter 652, Statutes of 2022) and AB 1021 (Wicks, Chapter 503, Statutes of 2025) gave flexibility to local educational agencies (LEAs) to develop employee housing on their land, and exempted certain employee housing projects with a specified percentage of affordable housing to be exempt from the California Environmental Quality Act (CEQA). In order to ensure compliance with federal and state fair housing laws, these bills provide that the LEAs may first offer units to LEA employees, but must also make the units available to the members of the public.
- 3) *Santa Clara Valley Transit Authority.* VTA is an independent special district that provides transportation options throughout the county including to the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale. VTA is Santa Clara County's authority for transit development and operations (light rail, bus, and paratransit),

congestion management, transportation-related funding, highway design and construction, real estate and transit-oriented development, and bicycle and pedestrian planning.

In a survey and fair housing analysis conducted by VTA of their 2,200 workers, one in four commute more than one hour each way, and nearly 10% commute more than two hours each way. More than 700 employees took the survey, with over 90% of respondents expressing that they are or may be interested in a future employee housing program.

- 4) *Current VTA authority to develop housing.* VTA has a statutorily authorized TOD program, which has been in place for several decades. Under this authority, VTA partnered with housing developers to build projects on VTA-owned land and developed two projects in 1998 and 1999; VTA recently reactivated the program and to date, have developed 579 units, 379 of which are affordable. VTA currently has 28 sites throughout Santa Clara County that have been designated for TOD around light rail, Caltrain, and Bay Area Rapid Transit stations. The projects support a mix of income levels, and since 2016 required affordable units be included. A 2022 policy increased the affordable housing goals to a minimum of 25% at each residential project, and a portfolio-wide goal of 40%

VTA is seeking statutory authority to develop housing specifically for VTA employees. Legislation providing authority to develop housing for one population could still be found to be in violation of the Fair Housing Act or other federal laws.<sup>1</sup> Public entities must be cognizant of this legal and historical context when crafting preference policies to ensure that these policies are compliant with applicable laws. For example, regardless of the agencies intentions, a preference policy could risk three types of legal challenges: (1) Intentional discrimination claims under the Equal Protection Clause of the Fourteenth Amendment; (2) Right to travel claims under the constitutional right to interstate travel and migration; and (3) Disparate impact claims under the Fair Housing Act. Additionally, cities that use federal funds are subject to rules issued by the Department of Housing and Urban Development (HUD), which dictates occupancy requirements and procedures that govern multifamily properties.

- 5) *Expanding and contracting VTA's developing authority.* The bill would expand the TOD program from ¼ mile of a “transit facility” to ½ mile of a

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<sup>1</sup> Eli Kaplan, *Implementing a Community Preference Policy for Affordable Housing in Berkeley* (Urban Displacement Project, Spring 2019)  
[https://www.urbandisplacement.org/sites/default/files/images/eli\\_kaplan\\_client\\_report.pdf](https://www.urbandisplacement.org/sites/default/files/images/eli_kaplan_client_report.pdf)

“transit facility.” According to the sponsors, some of the planned TOD projects are located on industrial and commercial sites. In past legislation, such as AB 2011 (Wicks, Chapter 647, Statutes of 2022), which authorizes housing on non-residentially zoned sites, the Legislature authorized housing development in industrial areas in *very* limited situations. Additionally, housing developments are excluded on certain commercial sites that are environmentally sensitive or in specific proximity to freeways or facilities that extracts or refines oil or natural gas. SB 79 (Wiener, Chapter 512, Statutes of 2025) precluded housing development on industrial sites and authorized upzoning in proximity to specified types of transit. **In order to resolve issues identified in Comments 4 and 5 and to make other technical changes, the author has agreed to the following amendments:**

- a) **Provide a preference for VTA employees and also comply with existing federal and state fair housing laws.**
  - b) **Revert VTAs TOD authority to sites identified in existing law.**
  - c) **Define lower- and moderate-income households consistent with existing law.**
- 6) *Legislative oversight.* **Given the novelty of this legislation, the author has agreed to consider requiring VTA to submit an annual report to the Legislature about how the bill is being implemented. This could inform best practices for future public agencies seeking similar authority. The report would include but not be limited to: (a) plans for employee housing projects, including number of units, affordability level, size of units, developer, and density of the project, and (2) status of pending employee housing projects including number of units, affordability level, size of units, developer and density of the project.**
- 7) *Double-referral.* This bill was also referred to the Senate Transportation Committee.

### **Related/Prior Legislation**

**AB 1021 (Wicks), Chapter 503, Statutes of 2025** --- made numerous changes to the provisions that make housing developments an allowable use on land owned by a local educational agency (LEA) and exempts these housing developments from the California Environmental Quality Act (CEQA).

**AB 2295 (Bloom, Chapter 652, Statutes of 2022)** --- authorized a housing development project to be an allowable use on any real property owned by a local educational agency.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: No    Local: No

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 10<sup>th</sup>, 2026.)

**SUPPORT:**

San Jose Silicon Valley Chamber of Commerce  
Santa Clara Valley Transportation Authority

**OPPOSITION:**

None Received.

**-- END --**