

File No. 200626

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: June 16, 2020

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OTHER

- Senate Bill No. 1085 - 05/27/20
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Prepared by: Lisa Lew

Date: June 12, 2020

Prepared by: _____

Date: _____

1 [Opposing California State Senate Bill No. 1085 (Skinner) - Expanded State Density Bonus
2 Law - Unless Amended]

2

3 **Resolution opposing California State Senate Bill No. 1085, authored by Senator Nancy**
4 **Skinner, and urging the San Francisco Legislative Delegation to amend Senate Bill No.**
5 **1085 in recognition of San Francisco’s local planning and affordable housing tools.**

6

7 WHEREAS, California Senate Bill No. 1085 (SB 1085) is intended to incentivize
8 housing development through the State Density Bonus Law “to expand its use in California to
9 increase affordable housing production,” according to its author; and

10 WHEREAS, Some local jurisdictions in California, because of local market conditions,
11 depend on granting significant development incentives in order to produce affordable units
12 within private housing development; and

13 WHEREAS, San Francisco, because of its unique local market conditions, has
14 repeatedly demonstrated that private development can and will bear higher affordability
15 requirements; and

16 WHEREAS, SB 1085 would revoke the City and County of San Francisco’s ability to
17 continue collecting fees to build affordable housing relative to the extra market-rate housing
18 “bonus” units granted to a housing development under the State Density Bonus Law; and

19 WHEREAS, San Francisco voters have consistently expressed through their votes a
20 desire for robust affordable housing programs that prioritize the needs of the City’s most
21 vulnerable residents; and

22 WHEREAS, In June 2016, the voters of San Francisco overwhelmingly adopted
23 Proposition C which modernized and strengthened the City’s “Inclusionary Housing” policy,
24 including ensuring that market rate housing projects availing themselves of State Density
25 Bonus Law “bonus units” would still provide equivalent affordable housing contributions to the

1 City the voters of San Francisco overwhelmingly adopted Proposition C which modernized
2 and strengthened the City’s “Inclusionary Housing” policy, including ensuring that market rate
3 housing projects availing themselves of State Density Bonus Law “bonus units” would still
4 provide equivalent affordable housing contributions to the City; and

5 WHEREAS, This SB 1085 proposed state preemption over local policies and
6 development standards handcuffs local jurisdictions from determining how to apply affordable
7 housing requirements in context of local market conditions; and

8 WHEREAS, San Francisco has been reported to have the highest median rent in the
9 United States with a one-bedroom asking monthly rent of \$3,7067 according to May 2020
10 data from the rental listing website Rent Jungle; and

11 WHEREAS, The City is also one of the highest-priced home ownership markets in the
12 United States with a median home sales price of \$1.353 million, a 3% increase from the
13 previous year according to a 2019 report by real estate website Zillow; and

14 WHEREAS, The Mayor’s Office of Housing and Community Development (“MOHCD”)
15 continues to see a widening affordability gap for extremely-low, low and middle-income
16 households in both the rental and homeownership markets; and

17 WHEREAS, The housing affordability gap has the greatest impact on extremely-low
18 and low income households such as seniors, persons with disabilities, low-income working
19 families and veterans, and inhibits San Francisco from ensuring that economic diversity is
20 maintained; and

21 WHEREAS, Limited state and federal resources and the high cost of housing
22 development put a greater burden on local government to contribute their own limited
23 resources, and consequently the City’s supply of affordable housing has not kept pace with
24 demand; and

25

1 WHEREAS, The State Density Bonus Law preemptions proposed by SB1085, if
2 applied to the existing affordable housing requirements on market rate housing development
3 in San Francisco, would result in *a reduction of* affordable units; and

4 WHEREAS, The failure to build sufficient affordable housing in San Francisco to meet
5 the needs of low- and moderate-income essential workers results in long commutes, road
6 congestion, and environmental harm as people seek affordable housing at ever-greater
7 distances from where they work; now, therefore, be it

8 RESOLVED, That San Francisco is committed to continuing to utilize all affordable
9 housing policy tools to achieve local housing balance goals for all income levels; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
11 Francisco opposes SB 1085 unless amended to allow San Francisco to continue applying
12 affordable housing fees to market rate “bonus” units granted under the State Density Bonus
13 Law; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
15 Francisco does hereby urge the San Francisco Legislative Delegation to oppose SB 1085, as
16 it would eliminate a critical San Francisco affordable housing tool; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
18 Francisco will continue to collaborate with its State Legislative Delegation to consider ways to
19 make the State Density Bonus law more equitable in dense urban environments like San
20 Francisco with strong existing local affordable housing policies; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
22 Francisco directs the Clerk of the Board to transmit copies of this Resolution to the California
23 State Legislature and the City Lobbyist upon passage.

AMENDED IN SENATE MAY 27, 2020

AMENDED IN SENATE MAY 18, 2020

AMENDED IN SENATE MARCH 24, 2020

SENATE BILL

No. 1085

Introduced by ~~Senator~~ *Senators Skinner and Caballero*
(Principal coauthors: Senators Atkins, McGuire, Lena Gonzalez, and
Rubio)

(Coauthors: Senators Hill and Roth)

February 19, 2020

An act to amend Sections 65400 and 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, as amended, Skinner. Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.

(1) Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development in the city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to, among other things, construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents, including lower income students. Existing law defines "incentives or concessions" to include, among other things, regulatory incentives or concessions proposed by the developer or the city or county that result in identifiable and actual cost reductions to provide for affordable housing costs, as specified.

This bill would revise that definition of “incentives or concessions” to include those proposed regulatory incentives or concessions that the developer determines result in identifiable and actual cost reductions to provide for affordable housing costs.

(2) Existing law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, excluding the units added by a density bonus awarded pursuant to the Density Bonus Law or any local law granting a greater density bonus.

This bill would require a unit designated to satisfy the inclusionary zoning requirements of a city or county to be included in the total number of units on which a density bonus and the number of incentives or concessions are based.

This bill would require a city or county to grant a density bonus and certain incentives or concessions if the developer agrees to construct a housing development that will contain a specified percentage of units for households of low or moderate incomes and for which the rent is 30% below the market rate for that city or county. The bill would require a city or county to grant one incentive or concession for a project that will contain a specified percentage of units for lower income students in a student housing development. The bill would make various changes to the above-referenced formula, including, among others, increasing the percentage density bonus to 40% for housing developments that have 11% of its units for very low income households.

(3) Existing law requires the planning agency of the city or county to provide to the department, the Office of Planning and Research, and the legislative body of the city or county, by April 1 of each year, an annual report that includes, among other things, the city or county’s progress in meeting its share of the regional housing needs.

This bill would require the planning agency to include in that report the number of units in a student housing development for lower income students for which the developer was granted a density bonus.

(4) Existing law authorizes a city or county to refuse a concession or incentive if the city or county makes a written finding, based upon substantial evidence that the concession or incentive would have a specified adverse impact on public health and safety, the physical environment, or real property listed in the California Register of Historical Resources.

This bill would remove the specified adverse impact on the physical environment from the list of reasons for which a city or county is authorized to refuse a concession or incentive.

Existing law prohibits a city or county from applying any development standard that will have the effect of physically precluding the construction of a development meeting the criteria for a density bonus at the densities or with the concessions or incentives permitted by certain provisions of the Density Bonus Law. Existing law authorizes an applicant to submit to a city or county a proposal for the waiver or reduction of such a development standard and to request a meeting with the city or county, and requires a court to award reasonable attorney’s fees and costs of suit to the plaintiff if the court finds that the refusal to grant a waiver or reduction violates certain provisions of the Density Bonus Law. Existing law prohibits these provisions from being interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specified adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

This bill would remove the specified impact upon the physical environment from the limitations on the above-described requirement that a local government waive or reduce development standards.

This bill would prohibit fees relating to affordable housing, including inclusionary zoning fees, in-lieu fees, and public benefit fees, from being imposed on a housing development’s affordable units or bonus units.

This bill would make findings and declarations related to the modifications to the Density Bonus Law made by this bill.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 65400 of the Government Code is
2 amended to read:

1 65400. (a) After the legislative body has adopted all or part
2 of a general plan, the planning agency shall do both of the
3 following:

4 (1) Investigate and make recommendations to the legislative
5 body regarding reasonable and practical means for implementing
6 the general plan or element of the general plan, so that it will serve
7 as an effective guide for orderly growth and development,
8 preservation and conservation of open-space land and natural
9 resources, and the efficient expenditure of public funds relating to
10 the subjects addressed in the general plan.

11 (2) Provide by April 1 of each year an annual report to the
12 legislative body, the Office of Planning and Research, and the
13 Department of Housing and Community Development that includes
14 all of the following:

15 (A) The status of the plan and progress in its implementation.

16 (B) (i) The progress in meeting its share of regional housing
17 needs determined pursuant to Section 65584 and local efforts to
18 remove governmental constraints to the maintenance, improvement,
19 and development of housing pursuant to paragraph (3) of
20 subdivision (c) of Section 65583.

21 (ii) The housing element portion of the annual report, as required
22 by this paragraph, shall be prepared through the use of standards,
23 forms, and definitions adopted by the Department of Housing and
24 Community Development. The department may review, adopt,
25 amend, and repeal the standards, forms, or definitions, to
26 implement this article. Any standards, forms, or definitions adopted
27 to implement this article shall not be subject to Chapter 3.5
28 (commencing with Section 11340) of Part 1 of Division 3 of Title
29 2. Before and after adoption of the forms, the housing element
30 portion of the annual report shall include a section that describes
31 the actions taken by the local government towards completion of
32 the programs and status of the local government's compliance with
33 the deadlines in its housing element. That report shall be considered
34 at an annual public meeting before the legislative body where
35 members of the public shall be allowed to provide oral testimony
36 and written comments.

37 (iii) The report may include the number of units that have been
38 substantially rehabilitated, converted from nonaffordable to
39 affordable by acquisition, and preserved consistent with the
40 standards set forth in paragraph (2) of subdivision (c) of Section

1 65583.1. The report shall document how the units meet the
2 standards set forth in that subdivision.

3 (iv) The planning agency shall include the number of units in
4 a student housing development for lower income students for which
5 the developer of the student housing development was granted a
6 density bonus pursuant to subparagraph (F) of paragraph (1) of
7 subdivision (b) of Section 65915.

8 (C) The number of housing development applications received
9 in the prior year.

10 (D) The number of units included in all development
11 applications in the prior year.

12 (E) The number of units approved and disapproved in the prior
13 year.

14 (F) The degree to which its approved general plan complies
15 with the guidelines developed and adopted pursuant to Section
16 65040.2 and the date of the last revision to the general plan.

17 (G) A listing of sites rezoned to accommodate that portion of
18 the city's or county's share of the regional housing need for each
19 income level that could not be accommodated on sites identified
20 in the inventory required by paragraph (1) of subdivision (c) of
21 Section 65583 and Section 65584.09. The listing of sites shall also
22 include any additional sites that may have been required to be
23 identified by Section 65863.

24 (H) The number of net new units of housing, including both
25 rental housing and for-sale housing and any units that the County
26 of Napa or the City of Napa may report pursuant to an agreement
27 entered into pursuant to Section 65584.08, that have been issued
28 a completed entitlement, a building permit, or a certificate of
29 occupancy, thus far in the housing element cycle, and the income
30 category, by area median income category, that each unit of
31 housing satisfies. That production report shall, for each income
32 category described in this subparagraph, distinguish between the
33 number of rental housing units and the number of for-sale units
34 that satisfy each income category. The production report shall
35 include, for each entitlement, building permit, or certificate of
36 occupancy, a unique site identifier that must include the assessor's
37 parcel number, but may include street address, or other identifiers.

38 (I) The number of applications submitted pursuant to subdivision
39 (a) of Section 65913.4, the location and the total number of
40 developments approved pursuant to subdivision (b) of Section

1 65913.4, the total number of building permits issued pursuant to
2 subdivision (b) of Section 65913.4, the total number of units
3 including both rental housing and for-sale housing by area median
4 income category constructed using the process provided for in
5 subdivision (b) of Section 65913.4.

6 (J) If the city or county has received funding pursuant to the
7 Local Government Planning Support Grants Program (Chapter 3.1
8 (commencing with Section 50515) of Part 2 of Division 31 of the
9 Health and Safety Code), the information required pursuant to
10 subdivision (a) of Section 50515.04 of the Health and Safety Code.

11 (b) If a court finds, upon a motion to that effect, that a city,
12 county, or city and county failed to submit, within 60 days of the
13 deadline established in this section, the housing element portion
14 of the report required pursuant to subparagraph (B) of paragraph
15 (2) of subdivision (a) that substantially complies with the
16 requirements of this section, the court shall issue an order or
17 judgment compelling compliance with this section within 60 days.
18 If the city, county, or city and county fails to comply with the
19 court's order within 60 days, the plaintiff or petitioner may move
20 for sanctions, and the court may, upon that motion, grant
21 appropriate sanctions. The court shall retain jurisdiction to ensure
22 that its order or judgment is carried out. If the court determines
23 that its order or judgment is not carried out within 60 days, the
24 court may issue further orders as provided by law to ensure that
25 the purposes and policies of this section are fulfilled. This
26 subdivision applies to proceedings initiated on or after the first
27 day of October following the adoption of forms and definitions by
28 the Department of Housing and Community Development pursuant
29 to paragraph (2) of subdivision (a), but no sooner than six months
30 following that adoption.

31 (c) The Department of Housing and Community Development
32 shall post a report submitted pursuant to this section on its internet
33 website within a reasonable time of receiving the report.

34 SEC. 2. Section 65915 of the Government Code is amended
35 to read:

36 65915. (a) (1) When an applicant seeks a density bonus for
37 a housing development within, or for the donation of land for
38 housing within, the jurisdiction of a city, county, or city and county,
39 that local government shall comply with this section. A city,
40 county, or city and county shall adopt an ordinance that specifies

1 how compliance with this section will be implemented. Failure to
2 adopt an ordinance shall not relieve a city, county, or city and
3 county from complying with this section.

4 (2) A local government shall not condition the submission,
5 review, or approval of an application pursuant to this chapter on
6 the preparation of an additional report or study that is not otherwise
7 required by state law, including this section. This subdivision does
8 not prohibit a local government from requiring an applicant to
9 provide reasonable documentation to establish eligibility for a
10 requested density bonus, incentives or concessions, as described
11 in subdivision (d), waivers or reductions of development standards,
12 as described in subdivision (e), and parking ratios, as described in
13 subdivision (p).

14 (3) In order to provide for the expeditious processing of a density
15 bonus application, the local government shall do all of the
16 following:

17 (A) Adopt procedures and timelines for processing a density
18 bonus application.

19 (B) Provide a list of all documents and information required to
20 be submitted with the density bonus application in order for the
21 density bonus application to be deemed complete. This list shall
22 be consistent with this chapter.

23 (C) Notify the applicant for a density bonus whether the
24 application is complete in a manner consistent with the timelines
25 specified in Section 65943.

26 (D) (i) If the local government notifies the applicant that the
27 application is deemed complete pursuant to subparagraph (C),
28 provide the applicant with a determination as to the following
29 matters:

30 (I) The amount of density bonus, calculated pursuant to
31 subdivision (f), for which the applicant is eligible.

32 (II) If the applicant requests a parking ratio pursuant to
33 subdivision (p), the parking ratio for which the applicant is eligible.

34 (III) If the applicant requests incentives or concessions pursuant
35 to subdivision (d) or waivers or reductions of development
36 standards pursuant to subdivision (e), whether the applicant has
37 provided adequate information for the local government to make
38 a determination as to those incentives, concessions, or waivers or
39 reductions of development standards.

1 (ii) Any determination required by this subparagraph shall be
2 based on the development project at the time the application is
3 deemed complete. The local government shall adjust the amount
4 of density bonus and parking ratios awarded pursuant to this section
5 based on any changes to the project during the course of
6 development.

7 (b) (1) A city, county, or city and county shall grant one density
8 bonus, the amount of which shall be as specified in subdivision
9 (f), and, if requested by the applicant and consistent with the
10 applicable requirements of this section, incentives or concessions,
11 as described in subdivision (d), waivers or reductions of
12 development standards, as described in subdivision (e), and parking
13 ratios, as described in subdivision (p), if an applicant for a housing
14 development seeks and agrees to construct a housing development,
15 excluding any units permitted by the density bonus awarded
16 pursuant to this section, that will contain at least any one of the
17 following:

18 (A) Ten percent of the total units of a housing development for
19 lower income households, as defined in Section 50079.5 of the
20 Health and Safety Code.

21 (B) Five percent of the total units of a housing development for
22 very low income households, as defined in Section 50105 of the
23 Health and Safety Code.

24 (C) A senior citizen housing development, as defined in Sections
25 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
26 residency based on age requirements for housing for older persons
27 pursuant to Section 798.76 or 799.5 of the Civil Code.

28 (D) Ten percent of the total dwelling units in a common interest
29 development, as defined in Section 4100 of the Civil Code, for
30 persons and families of moderate income, as defined in Section
31 50093 of the Health and Safety Code, provided that all units in the
32 development are offered to the public for purchase.

33 (E) Ten percent of the total units of a housing development for
34 transitional foster youth, as defined in Section 66025.9 of the
35 Education Code, disabled veterans, as defined in Section 18541,
36 or homeless persons, as defined in the federal McKinney-Vento
37 Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units
38 described in this subparagraph shall be subject to a recorded
39 affordability restriction of 55 years and shall be provided at the
40 same affordability level as very low income units.

1 (F) (i) Twenty percent of the total units for lower income
2 students in a student housing development that meets the following
3 requirements:

4 (I) All units in the student housing development will be used
5 exclusively for undergraduate, graduate, or professional students
6 enrolled full time at an institution of higher education accredited
7 by the Western Association of Schools and Colleges or the
8 Accrediting Commission for Community and Junior Colleges. In
9 order to be eligible under this subclause, the developer shall, as a
10 condition of receiving a certificate of occupancy, provide evidence
11 to the city, county, or city and county that the developer has entered
12 into an operating agreement or master lease with one or more
13 institutions of higher education for the institution or institutions
14 to occupy all units of the student housing development with
15 students from that institution or institutions. An operating
16 agreement or master lease entered into pursuant to this subclause
17 is not violated or breached if, in any subsequent year, there are not
18 sufficient students enrolled in an institution of higher education
19 to fill all units in the student housing development.

20 (II) The applicable 20-percent units will be used for lower
21 income students.

22 (III) The rent provided in the applicable units of the development
23 for lower income students shall be calculated at 30 percent of 65
24 percent of the area median income for a single-room occupancy
25 unit type.

26 (IV) The development will provide priority for the applicable
27 affordable units for lower income students experiencing
28 homelessness. A homeless service provider, as defined in paragraph
29 (3) of subdivision (d) of Section 103577 of the Health and Safety
30 Code, or institution of higher education that has knowledge of a
31 person's homeless status may verify a person's status as homeless
32 for purposes of this subclause.

33 (ii) For purposes of calculating a density bonus granted pursuant
34 to this subparagraph, the term "unit" as used in this section means
35 one rental bed and its pro rata share of associated common area
36 facilities. The units described in this subparagraph shall be subject
37 to a recorded affordability restriction of 55 years.

38 (G) One hundred percent of the total units, exclusive of a
39 manager's unit or units, are for lower income households, as
40 defined by Section 50079.5 of the Health and Safety Code, except

1 that up to 20 percent of the total units in the development may be
2 for moderate-income households, as defined in Section 50053 of
3 the Health and Safety Code.

4 (H) Twenty percent of the units meet both of the following:

5 (i) The unit is for households of low or moderate incomes, as
6 defined in Sections 50079.5 and 50093 of the Health and Safety
7 Code, respectively.

8 (ii) The rent for the unit is 30 percent below the market rate for
9 the city, county, or city and county in which the housing
10 development is located. The applicant shall provide the city,
11 county, or city and county with evidence to establish that the units
12 meet the requirement of this clause.

13 (2) For purposes of calculating the amount of the density bonus
14 pursuant to subdivision (f), an applicant who requests a density
15 bonus pursuant to this subdivision shall elect whether the bonus
16 shall be awarded on the basis of subparagraph (A), (B), (C), (D),
17 (E), (F), (G), or (H) of paragraph (1).

18 (c) (1) (A) An applicant shall agree to, and the city, county,
19 or city and county shall ensure, the continued affordability of all
20 very low, low-, and moderate-income rental units that qualified
21 the applicant for the award of the density bonus for 55 years or a
22 longer period of time if required by the construction or mortgage
23 financing assistance program, mortgage insurance program, or
24 rental subsidy program.

25 (B) (i) Except as otherwise provided in clause (ii), rents for the
26 lower and moderate income density bonus units shall be set at an
27 affordable rent, as defined in Section 50053 of the Health and
28 Safety Code.

29 (ii) For housing developments meeting the criteria of
30 subparagraph (G) of paragraph (1) of subdivision (b), rents for all
31 units in the development, including both base density and density
32 bonus units, shall be as follows:

33 (I) The rent for at least 20 percent of the units in the
34 development shall be set at an affordable rent, as defined in Section
35 50053 of the Health and Safety Code.

36 (II) The rent for the remaining units in the development shall
37 be set at an amount consistent with the maximum rent levels for
38 a housing development that receives an allocation of state or federal
39 low-income housing tax credits from the California Tax Credit
40 Allocation Committee.

1 (2) An applicant shall agree to, and the city, county, or city and
2 county shall ensure that, the initial occupant of all for-sale units
3 that qualified the applicant for the award of the density bonus are
4 persons and families of very low, low, or moderate income, as
5 required, and that the units are offered at an affordable housing
6 cost, as that cost is defined in Section 50052.5 of the Health and
7 Safety Code. The local government shall enforce an equity sharing
8 agreement, unless it is in conflict with the requirements of another
9 public funding source or law. The following apply to the equity
10 sharing agreement:

11 (A) Upon resale, the seller of the unit shall retain the value of
12 any improvements, the downpayment, and the seller's proportionate
13 share of appreciation. The local government shall recapture any
14 initial subsidy, as defined in subparagraph (B), and its proportionate
15 share of appreciation, as defined in subparagraph (C), which
16 amount shall be used within five years for any of the purposes
17 described in subdivision (e) of Section 33334.2 of the Health and
18 Safety Code that promote home ownership.

19 (B) For purposes of this subdivision, the local government's
20 initial subsidy shall be equal to the fair market value of the home
21 at the time of initial sale minus the initial sale price to the
22 moderate-income household, plus the amount of any downpayment
23 assistance or mortgage assistance. If upon resale the market value
24 is lower than the initial market value, then the value at the time of
25 the resale shall be used as the initial market value.

26 (C) For purposes of this subdivision, the local government's
27 proportionate share of appreciation shall be equal to the ratio of
28 the local government's initial subsidy to the fair market value of
29 the home at the time of initial sale.

30 (3) (A) An applicant shall be ineligible for a density bonus or
31 any other incentives or concessions under this section if the housing
32 development is proposed on any property that includes a parcel or
33 parcels on which rental dwelling units are or, if the dwelling units
34 have been vacated or demolished in the five-year period preceding
35 the application, have been subject to a recorded covenant,
36 ordinance, or law that restricts rents to levels affordable to persons
37 and families of lower or very low income; subject to any other
38 form of rent or price control through a public entity's valid exercise
39 of its police power; or occupied by lower or very low income

1 households, unless the proposed housing development replaces
2 those units, and either of the following applies:

3 (i) The proposed housing development, inclusive of the units
4 replaced pursuant to this paragraph, contains affordable units at
5 the percentages set forth in subdivision (b).

6 (ii) Each unit in the development, exclusive of a manager's unit
7 or units, is affordable to, and occupied by, either a lower or very
8 low income household.

9 (B) For the purposes of this paragraph, "replace" shall mean
10 either of the following:

11 (i) If any dwelling units described in subparagraph (A) are
12 occupied on the date of application, the proposed housing
13 development shall provide at least the same number of units of
14 equivalent size to be made available at affordable rent or affordable
15 housing cost to, and occupied by, persons and families in the same
16 or lower income category as those households in occupancy. If
17 the income category of the household in occupancy is not known,
18 it shall be rebuttably presumed that lower income renter households
19 occupied these units in the same proportion of lower income renter
20 households to all renter households within the jurisdiction, as
21 determined by the most recently available data from the United
22 States Department of Housing and Urban Development's
23 Comprehensive Housing Affordability Strategy database. For
24 unoccupied dwelling units described in subparagraph (A) in a
25 development with occupied units, the proposed housing
26 development shall provide units of equivalent size to be made
27 available at affordable rent or affordable housing cost to, and
28 occupied by, persons and families in the same or lower income
29 category as the last household in occupancy. If the income category
30 of the last household in occupancy is not known, it shall be
31 rebuttably presumed that lower income renter households occupied
32 these units in the same proportion of lower income renter
33 households to all renter households within the jurisdiction, as
34 determined by the most recently available data from the United
35 States Department of Housing and Urban Development's
36 Comprehensive Housing Affordability Strategy database. All
37 replacement calculations resulting in fractional units shall be
38 rounded up to the next whole number. If the replacement units will
39 be rental dwelling units, these units shall be subject to a recorded
40 affordability restriction for at least 55 years. If the proposed

1 development is for-sale units, the units replaced shall be subject
2 to paragraph (2).

3 (ii) If all dwelling units described in subparagraph (A) have
4 been vacated or demolished within the five-year period preceding
5 the application, the proposed housing development shall provide
6 at least the same number of units of equivalent size as existed at
7 the highpoint of those units in the five-year period preceding the
8 application to be made available at affordable rent or affordable
9 housing cost to, and occupied by, persons and families in the same
10 or lower income category as those persons and families in
11 occupancy at that time, if known. If the incomes of the persons
12 and families in occupancy at the highpoint is not known, it shall
13 be rebuttably presumed that low-income and very low income
14 renter households occupied these units in the same proportion of
15 low-income and very low income renter households to all renter
16 households within the jurisdiction, as determined by the most
17 recently available data from the United States Department of
18 Housing and Urban Development's Comprehensive Housing
19 Affordability Strategy database. All replacement calculations
20 resulting in fractional units shall be rounded up to the next whole
21 number. If the replacement units will be rental dwelling units,
22 these units shall be subject to a recorded affordability restriction
23 for at least 55 years. If the proposed development is for-sale units,
24 the units replaced shall be subject to paragraph (2).

25 (C) Notwithstanding subparagraph (B), for any dwelling unit
26 described in subparagraph (A) that is or was, within the five-year
27 period preceding the application, subject to a form of rent or price
28 control through a local government's valid exercise of its police
29 power and that is or was occupied by persons or families above
30 lower income, the city, county, or city and county may do either
31 of the following:

32 (i) Require that the replacement units be made available at
33 affordable rent or affordable housing cost to, and occupied by,
34 low-income persons or families. If the replacement units will be
35 rental dwelling units, these units shall be subject to a recorded
36 affordability restriction for at least 55 years. If the proposed
37 development is for-sale units, the units replaced shall be subject
38 to paragraph (2).

39 (ii) Require that the units be replaced in compliance with the
40 jurisdiction's rent or price control ordinance, provided that each

1 unit described in subparagraph (A) is replaced. Unless otherwise
2 required by the jurisdiction's rent or price control ordinance, these
3 units shall not be subject to a recorded affordability restriction.

4 (D) For purposes of this paragraph, "equivalent size" means
5 that the replacement units contain at least the same total number
6 of bedrooms as the units being replaced.

7 (E) Subparagraph (A) does not apply to an applicant seeking a
8 density bonus for a proposed housing development if the
9 applicant's application was submitted to, or processed by, a city,
10 county, or city and county before January 1, 2015.

11 (d) (1) An applicant for a density bonus pursuant to subdivision
12 (b) may submit to a city, county, or city and county a proposal for
13 the specific incentives or concessions that the applicant requests
14 pursuant to this section, and may request a meeting with the city,
15 county, or city and county. The city, county, or city and county
16 shall grant the concession or incentive requested by the applicant
17 unless the city, county, or city and county makes a written finding,
18 based upon substantial evidence, of any of the following:

19 (A) The concession or incentive does not result in identifiable
20 and actual cost reductions, consistent with subdivision (k), to
21 provide for affordable housing costs, as defined in Section 50052.5
22 of the Health and Safety Code, or for rents for the targeted units
23 to be set as specified in subdivision (c).

24 (B) The concession or incentive would have a specific, adverse
25 impact, as defined in paragraph (2) of subdivision (d) of Section
26 65589.5, upon public health and safety or on any real property that
27 is listed in the California Register of Historical Resources and for
28 which there is no feasible method to satisfactorily mitigate or avoid
29 the specific, adverse impact without rendering the development
30 unaffordable to low-income and moderate-income households.

31 (C) The concession or incentive would be contrary to state or
32 federal law.

33 (2) Upon a request not refused pursuant to paragraph (1), the
34 applicant shall receive the following number of incentives or
35 concessions for the following projects:

36 (A) One incentive or concession for a project that meets any of
37 the following criteria:

38 (i) At least 10 percent of the total units are for lower income
39 households.

- 1 (ii) At least 5 percent of the total units are for very low income
2 households.
- 3 (iii) At least 10 percent of the total units are for persons and
4 families of moderate income in a common interest development.
- 5 (iv) At least 20 percent of the total units are for lower income
6 students in a student housing development.
- 7 (v) At least 20 percent of the total units meet the requirements
8 of subparagraph (H) of paragraph (1) of subdivision (b).
- 9 (B) Two incentives or concessions for a project that meets any
10 of the following criteria:
- 11 (i) At least 20 percent of the total units are for lower income
12 households.
- 13 (ii) At least 10 percent of the total units are for very low income
14 households.
- 15 (iii) At least 20 percent of the total units are for persons and
16 families of moderate income in a common interest development.
- 17 (iv) At least 30 percent of the total units meet the requirements
18 of subparagraph (H) of paragraph (1) of subdivision (b).
- 19 (C) Three incentives or concessions for a project that meets any
20 of the following criteria:
- 21 (i) At least 30 percent of the total units are for lower income
22 households.
- 23 (ii) At least 15 percent of the total units are for very low income
24 households.
- 25 (iii) At least 30 percent of the total units are for persons and
26 families of moderate income in a common interest development.
- 27 (iv) At least 40 percent of the total units meet the requirements
28 of subparagraph (H) of paragraph (1) of subdivision (b).
- 29 (D) Four incentives or concessions for a project meeting the
30 criteria of subparagraph (G) of paragraph (1) of subdivision (b).
31 If the project is located within one-half mile of a major transit stop,
32 as defined in subdivision (b) of Section 21155 of the Public
33 Resources Code, the applicant shall also receive a height increase
34 of up to three additional stories, or 33 feet.
- 35 (3) The applicant may initiate judicial proceedings if the city,
36 county, or city and county refuses to grant a requested density
37 bonus, incentive, or concession. If a court finds that the refusal to
38 grant a requested density bonus, incentive, or concession is in
39 violation of this section, the court shall award the plaintiff
40 reasonable attorney's fees and costs of suit. This subdivision shall

1 not be interpreted to require a local government to grant an
2 incentive or concession that has a specific, adverse impact, as
3 defined in paragraph (2) of subdivision (d) of Section 65589.5,
4 upon health or safety, and for which there is no feasible method
5 to satisfactorily mitigate or avoid the specific adverse impact. This
6 subdivision shall not be interpreted to require a local government
7 to grant an incentive or concession that would have an adverse
8 impact on any real property that is listed in the California Register
9 of Historical Resources. The city, county, or city and county shall
10 establish procedures for carrying out this section that shall include
11 legislative body approval of the means of compliance with this
12 section.

13 (4) The city, county, or city and county shall bear the burden
14 of proof for the denial of a requested concession or incentive.

15 (e) (1) In no case may a city, county, or city and county apply
16 any development standard that will have the effect of physically
17 precluding the construction of a development meeting the criteria
18 of subdivision (b) at the densities or with the concessions or
19 incentives permitted by this section. Subject to paragraph (3), an
20 applicant may submit to a city, county, or city and county a
21 proposal for the waiver or reduction of development standards that
22 will have the effect of physically precluding the construction of a
23 development meeting the criteria of subdivision (b) at the densities
24 or with the concessions or incentives permitted under this section,
25 and may request a meeting with the city, county, or city and county.
26 If a court finds that the refusal to grant a waiver or reduction of
27 development standards is in violation of this section, the court
28 shall award the plaintiff reasonable attorney's fees and costs of
29 suit. This subdivision shall not be interpreted to require a local
30 government to waive or reduce development standards if the waiver
31 or reduction would have a specific, adverse impact, as defined in
32 paragraph (2) of subdivision (d) of Section 65589.5, upon health
33 or safety, and for which there is no feasible method to satisfactorily
34 mitigate or avoid the specific adverse impact. This subdivision
35 shall not be interpreted to require a local government to waive or
36 reduce development standards that would have an adverse impact
37 on any real property that is listed in the California Register of
38 Historical Resources, or to grant any waiver or reduction that would
39 be contrary to state or federal law.

1 (2) A proposal for the waiver or reduction of development
2 standards pursuant to this subdivision shall neither reduce nor
3 increase the number of incentives or concessions to which the
4 applicant is entitled pursuant to subdivision (d).

5 (3) A housing development that receives a waiver from any
6 maximum controls on density pursuant to clause (ii) of
7 subparagraph (D) of paragraph (3) of subdivision (f) shall not be
8 eligible for, and shall not receive, a waiver or reduction of
9 development standards pursuant to this subdivision, other than as
10 expressly provided in subparagraph (D) of paragraph (2) of
11 subdivision (d) and clause (ii) of subparagraph (D) of paragraph
12 (3) of subdivision (f).

13 (f) For the purposes of this chapter, “density bonus” means a
14 density increase over the otherwise maximum allowable gross
15 residential density as of the date of application by the applicant to
16 the city, county, or city and county, or, if elected by the applicant,
17 a lesser percentage of density increase, including, but not limited
18 to, no increase in density. The amount of density increase to which
19 the applicant is entitled shall vary according to the amount by
20 which the percentage of affordable housing units exceeds the
21 percentage established in subdivision (b).

22 (1) For housing developments meeting the criteria of
23 subparagraph (A) of paragraph (1) of subdivision (b), the density
24 bonus shall be calculated as follows:

	Percentage Low-Income Units	Percentage Density Bonus
25		
26		
27		
28	10	20
29	11	21.5
30	12	23
31	13	24.5
32	14	26
33	15	27.5
34	17	30.5
35	18	32
36	19	33.5
37	20	35
38		

1 (2) For housing developments meeting the criteria of
2 subparagraph (B) of paragraph (1) of subdivision (b), the density
3 bonus shall be calculated as follows:

	Percentage Very Low Income Units	Percentage Density Bonus
4		
5		
6	5	20
7	6	22.5
8	7	25
9	8	27.5
10	9	30
11	10	32.5
12	11	40

13
14 (3) (A) For housing developments meeting the criteria of
15 subparagraph (C) of paragraph (1) of subdivision (b), the density
16 bonus shall be 20 percent of the number of senior housing units.

17 (B) For housing developments meeting the criteria of
18 subparagraph (E) of paragraph (1) of subdivision (b), the density
19 bonus shall be 20 percent of the number of the type of units giving
20 rise to a density bonus under that subparagraph.

21 (C) For housing developments meeting the criteria of
22 subparagraph (F) of paragraph (1) of subdivision (b), the density
23 bonus shall be 35 percent of the student housing units.

24 (D) For housing developments meeting the criteria of
25 subparagraph (G) of paragraph (1) of subdivision (b), the following
26 shall apply:

27 (i) Except as otherwise provided in clause (ii), the density bonus
28 shall be 80 percent of the number of units for lower income
29 households.

30 (ii) If the housing development is located within one-half mile
31 of a major transit stop, as defined in subdivision (b) of Section
32 21155 of the Public Resources Code, the city, county, or city and
33 county shall not impose any maximum controls on density.

34 (4) For housing developments meeting the criteria of
35 subparagraph (D) of paragraph (1) of subdivision (b), the density
36 bonus shall be calculated as follows:

	Percentage Moderate-Income Units	Percentage Density Bonus
37		
38		
39	10	5
40	11	6

1	12	7
2	13	8
3	14	9
4	15	10
5	16	11
6	17	12
7	18	13
8	19	14
9	20	15
10	21	16
11	22	17
12	23	18
13	24	19
14	25	20
15	26	21
16	27	22
17	28	23
18	29	24
19	30	25
20	31	26
21	32	27
22	33	28
23	34	29
24	35	30
25	36	31
26	37	32
27	38	33
28	39	34
29	40	35

31 (5) For housing developments meeting the criteria of
32 subparagraph (H) of paragraph (1) of subdivision (b), the density
33 bonus shall be 35 percent of the total units.

34 (6) All density calculations resulting in fractional units shall be
35 rounded up to the next whole number. The granting of a density
36 bonus shall not require, or be interpreted, in and of itself, to require
37 a general plan amendment, local coastal plan amendment, zoning
38 change, or other discretionary approval.

39 (7) Fees relating to affordable housing, including inclusionary
40 zoning fees, in-lieu fees, and public benefit fees, shall not be

1 imposed on a housing development’s affordable units or bonus
2 units.

3 (g) (1) When an applicant for a tentative subdivision map,
4 parcel map, or other residential development approval donates
5 land to a city, county, or city and county in accordance with this
6 subdivision, the applicant shall be entitled to a 15-percent increase
7 above the otherwise maximum allowable residential density for
8 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
9		
10		
11	10	15
12	11	16
13	12	17
14	13	18
15	14	19
16	15	20
17	16	21
18	17	22
19	18	23
20	19	24
21	20	25
22	21	26
23	22	27
24	23	28
25	24	29
26	25	30
27	26	31
28	27	32
29	28	33
30	29	34
31	30	35

32
33 (2) This increase shall be in addition to any increase in density
34 mandated by subdivision (b), up to a maximum combined mandated
35 density increase of 35 percent if an applicant seeks an increase
36 pursuant to both this subdivision and subdivision (b). All density
37 calculations resulting in fractional units shall be rounded up to the
38 next whole number. Nothing in this subdivision shall be construed
39 to enlarge or diminish the authority of a city, county, or city and
40 county to require a developer to donate land as a condition of

1 development. An applicant shall be eligible for the increased
2 density bonus described in this subdivision if all of the following
3 conditions are met:

4 (A) The applicant donates and transfers the land no later than
5 the date of approval of the final subdivision map, parcel map, or
6 residential development application.

7 (B) The developable acreage and zoning classification of the
8 land being transferred are sufficient to permit construction of units
9 affordable to very low income households in an amount not less
10 than 10 percent of the number of residential units of the proposed
11 development.

12 (C) The transferred land is at least one acre in size or of
13 sufficient size to permit development of at least 40 units, has the
14 appropriate general plan designation, is appropriately zoned with
15 appropriate development standards for development at the density
16 described in paragraph (3) of subdivision (c) of Section 65583.2,
17 and is or will be served by adequate public facilities and
18 infrastructure.

19 (D) The transferred land shall have all of the permits and
20 approvals, other than building permits, necessary for the
21 development of the very low income housing units on the
22 transferred land, not later than the date of approval of the final
23 subdivision map, parcel map, or residential development
24 application, except that the local government may subject the
25 proposed development to subsequent design review to the extent
26 authorized by subdivision (i) of Section 65583.2 if the design is
27 not reviewed by the local government before the time of transfer.

28 (E) The transferred land and the affordable units shall be subject
29 to a deed restriction ensuring continued affordability of the units
30 consistent with paragraphs (1) and (2) of subdivision (c), which
31 shall be recorded on the property at the time of the transfer.

32 (F) The land is transferred to the local agency or to a housing
33 developer approved by the local agency. The local agency may
34 require the applicant to identify and transfer the land to the
35 developer.

36 (G) The transferred land shall be within the boundary of the
37 proposed development or, if the local agency agrees, within
38 one-quarter mile of the boundary of the proposed development.

39 (H) A proposed source of funding for the very low income units
40 shall be identified not later than the date of approval of the final

1 subdivision map, parcel map, or residential development
2 application.

3 (h) (1) When an applicant proposes to construct a housing
4 development that conforms to the requirements of subdivision (b)
5 and includes a childcare facility that will be located on the premises
6 of, as part of, or adjacent to, the project, the city, county, or city
7 and county shall grant either of the following:

8 (A) An additional density bonus that is an amount of square
9 feet of residential space that is equal to or greater than the amount
10 of square feet in the childcare facility.

11 (B) An additional concession or incentive that contributes
12 significantly to the economic feasibility of the construction of the
13 childcare facility.

14 (2) The city, county, or city and county shall require, as a
15 condition of approving the housing development, that the following
16 occur:

17 (A) The childcare facility shall remain in operation for a period
18 of time that is as long as or longer than the period of time during
19 which the density bonus units are required to remain affordable
20 pursuant to subdivision (c).

21 (B) Of the children who attend the childcare facility, the children
22 of very low income households, lower income households, or
23 families of moderate income shall equal a percentage that is equal
24 to or greater than the percentage of dwelling units that are required
25 for very low income households, lower income households, or
26 families of moderate income pursuant to subdivision (b).

27 (3) Notwithstanding any requirement of this subdivision, a city,
28 county, or city and county shall not be required to provide a density
29 bonus or concession for a childcare facility if it finds, based upon
30 substantial evidence, that the community has adequate childcare
31 facilities.

32 (4) “Childcare facility,” as used in this section, means a child
33 daycare facility other than a family daycare home, including, but
34 not limited to, infant centers, preschools, extended daycare
35 facilities, and schoolage childcare centers.

36 (i) “Housing development,” as used in this section, means a
37 development project for five or more residential units, including
38 mixed-use developments. For the purposes of this section, “housing
39 development” also includes a subdivision or common interest
40 development, as defined in Section 4100 of the Civil Code,

1 approved by a city, county, or city and county and consists of
2 residential units or unimproved residential lots and either a project
3 to substantially rehabilitate and convert an existing commercial
4 building to residential use or the substantial rehabilitation of an
5 existing multifamily dwelling, as defined in subdivision (d) of
6 Section 65863.4, where the result of the rehabilitation would be a
7 net increase in available residential units. For the purpose of
8 calculating a density bonus, the residential units shall be on
9 contiguous sites that are the subject of one development
10 application, but do not have to be based upon individual
11 subdivision maps or parcels. The density bonus shall be permitted
12 in geographic areas of the housing development other than the
13 areas where the units for the lower income households are located.

14 (j) (1) The granting of a concession or incentive shall not require
15 or be interpreted, in and of itself, to require a general plan
16 amendment, local coastal plan amendment, zoning change, study,
17 or other discretionary approval. For purposes of this subdivision,
18 “study” does not include reasonable documentation to establish
19 eligibility for the concession or incentive or to demonstrate that
20 the incentive or concession meets the definition set forth in
21 subdivision (k). This provision is declaratory of existing law.

22 (2) Except as provided in subdivisions (d) and (e), the granting
23 of a density bonus shall not require or be interpreted to require the
24 waiver of a local ordinance or provisions of a local ordinance
25 unrelated to development standards.

26 (k) For the purposes of this chapter, concession or incentive
27 means any of the following:

28 (1) A reduction in site development standards or a modification
29 of zoning code requirements or architectural design requirements
30 that exceed the minimum building standards approved by the
31 California Building Standards Commission as provided in Part 2.5
32 (commencing with Section 18901) of Division 13 of the Health
33 and Safety Code, including, but not limited to, a reduction in
34 setback and square footage requirements and in the ratio of
35 vehicular parking spaces that would otherwise be required that
36 results in identifiable and actual cost reductions, to provide for
37 affordable housing costs, as defined in Section 50052.5 of the
38 Health and Safety Code, or for rents for the targeted units to be
39 set as specified in subdivision (c).

1 (2) Approval of mixed-use zoning in conjunction with the
2 housing project if commercial, office, industrial, or other land uses
3 will reduce the cost of the housing development and if the
4 commercial, office, industrial, or other land uses are compatible
5 with the housing project and the existing or planned development
6 in the area where the proposed housing project will be located.

7 (3) Other regulatory incentives or concessions proposed by the
8 developer or the city, county, or city and county that result in
9 identifiable and actual cost reductions to provide for affordable
10 housing costs, as determined by the developer and as defined in
11 Section 50052.5 of the Health and Safety Code, or for rents for
12 the targeted units to be set as specified in subdivision (c).

13 (l) Subdivision (k) does not limit or require the provision of
14 direct financial incentives for the housing development, including
15 the provision of publicly owned land, by the city, county, or city
16 and county, or the waiver of fees or dedication requirements.

17 (m) This section does not supersede or in any way alter or lessen
18 the effect or application of the California Coastal Act of 1976
19 (Division 20 (commencing with Section 30000) of the Public
20 Resources Code). Any density bonus, concessions, incentives,
21 waivers or reductions of development standards, and parking ratios
22 to which the applicant is entitled under this section shall be
23 permitted in a manner that is consistent with this section and
24 Division 20 (commencing with Section 30000) of the Public
25 Resources Code.

26 (n) If permitted by local ordinance, nothing in this section shall
27 be construed to prohibit a city, county, or city and county from
28 granting a density bonus greater than what is described in this
29 section for a development that meets the requirements of this
30 section or from granting a proportionately lower density bonus
31 than what is required by this section for developments that do not
32 meet the requirements of this section.

33 (o) For purposes of this section, the following definitions shall
34 apply:

35 (1) "Development standard" includes a site or construction
36 condition, including, but not limited to, a height limitation, a
37 setback requirement, a floor area ratio, an onsite open-space
38 requirement, or a parking ratio that applies to a residential
39 development pursuant to any ordinance, general plan element,

1 specific plan, charter, or other local condition, law, policy,
2 resolution, or regulation.

3 (2) “Lower income student” means a student who has a
4 household income and asset level that does not exceed the level
5 for Cal Grant A or Cal Grant B award recipients as set forth in
6 paragraph (1) of subdivision (k) of Section 69432.7 of the
7 Education Code. The eligibility of a student to occupy a unit for
8 lower income students under this section shall be verified by an
9 affidavit, award letter, or letter of eligibility provided by the
10 institution of higher education in which the student is enrolled or
11 by the California Student Aid Commission that the student receives
12 or is eligible for financial aid, including an institutional grant or
13 fee waiver from the college or university, the California Student
14 Aid Commission, or the federal government.

15 (3) “Maximum allowable residential density” means the density
16 allowed under the zoning ordinance and land use element of the
17 general plan, or, if a range of density is permitted, means the
18 maximum allowable density for the specific zoning range and land
19 use element of the general plan applicable to the project. If the
20 density allowed under the zoning ordinance is inconsistent with
21 the density allowed under the land use element of the general plan,
22 the general plan density shall prevail.

23 (4) “Total units” or “total dwelling units” means a calculation
24 of the number of units that:

25 (A) Excludes a unit added by a density bonus awarded pursuant
26 to this section or any local law granting a greater density bonus.

27 (B) Includes a unit designated to satisfy an inclusionary zoning
28 requirement of a city, county, or city and county.

29 (p) (1) Except as provided in paragraphs (2), (3), and (4), upon
30 the request of the developer, a city, county, or city and county shall
31 not require a vehicular parking ratio, inclusive of handicapped and
32 guest parking, of a development meeting the criteria of subdivisions
33 (b) and (c), that exceeds the following ratios:

34 (A) Zero to one bedroom: one onsite parking space.

35 (B) Two to three bedrooms: two onsite parking spaces.

36 (C) Four and more bedrooms: two and one-half parking spaces.

37 (2) Notwithstanding paragraph (1), if a development includes
38 the maximum percentage of moderate-income, low-income, or
39 very low income units provided for in paragraph (1), (2), or (5) of
40 subdivision (f) and is located within one-half mile of a major transit

1 stop, as defined in subdivision (b) of Section 21155 of the Public
 2 Resources Code, and the residents of the development have
 3 unobstructed access to the major transit stop from the development,
 4 then, upon the request of the developer, a city, county, or city and
 5 county shall not impose a vehicular parking ratio, inclusive of
 6 handicapped and guest parking, that exceeds 0.5 spaces per
 7 bedroom. For purposes of this subdivision, “unobstructed access
 8 to the major transit stop” means a resident is able to access the
 9 major transit stop without encountering natural or constructed
 10 impediments.

11 (3) Notwithstanding paragraph (1), if a development consists
 12 solely of rental units, exclusive of a manager’s unit or units, with
 13 an affordable housing cost to lower income families, as provided
 14 in Section 50052.5 of the Health and Safety Code, then, upon the
 15 request of the developer, a city, county, or city and county shall
 16 not impose a vehicular parking ratio, inclusive of handicapped and
 17 guest parking, that exceeds the following ratios:

18 (A) If the development is located within one-half mile of a major
 19 transit stop, as defined in subdivision (b) of Section 21155 of the
 20 Public Resources Code, and the residents of the development have
 21 unobstructed access to the major transit stop from the development,
 22 the ratio shall not exceed 0.5 spaces per unit.

23 (B) The ratio shall not exceed 0.5 spaces per unit if the
 24 development meets both of the following requirements:

25 (i) The development is a for-rent housing development for
 26 individuals who are 62 years of age or older that complies with
 27 Sections 51.2 and 51.3 of the Civil Code.

28 (ii) The residents of the development have either access to
 29 paratransit service or unobstructed access, within one-half mile,
 30 to fixed bus route service that operates at least eight times per day.

31 (4) Notwithstanding paragraphs (1) and (8), if a development
 32 consists solely of rental units, exclusive of a manager’s unit or
 33 units, with an affordable housing cost to lower income families,
 34 as provided in Section 50052.5 of the Health and Safety Code, and
 35 the development is either a special needs housing development,
 36 as defined in Section 51312 of the Health and Safety Code, or a
 37 supportive housing development, as defined in Section 50675.14
 38 of the Health and Safety Code, then, upon the request of the
 39 developer, a city, county, or city and county shall not impose any
 40 minimum vehicular parking requirement. A development that is

1 a special needs housing development shall have either paratransit
2 service or unobstructed access, within one-half mile, to fixed bus
3 route service that operates at least eight times per day.

4 (5) If the total number of parking spaces required for a
5 development is other than a whole number, the number shall be
6 rounded up to the next whole number. For purposes of this
7 subdivision, a development may provide onsite parking through
8 tandem parking or uncovered parking, but not through onstreet
9 parking.

10 (6) This subdivision shall apply to a development that meets
11 the requirements of subdivisions (b) and (c), but only at the request
12 of the applicant. An applicant may request parking incentives or
13 concessions beyond those provided in this subdivision pursuant
14 to subdivision (d).

15 (7) This subdivision does not preclude a city, county, or city
16 and county from reducing or eliminating a parking requirement
17 for development projects of any type in any location.

18 (8) Notwithstanding paragraphs (2) and (3), if a city, county,
19 city and county, or an independent consultant has conducted an
20 areawide or jurisdictionwide parking study in the last seven years,
21 then the city, county, or city and county may impose a higher
22 vehicular parking ratio not to exceed the ratio described in
23 paragraph (1), based upon substantial evidence found in the parking
24 study, that includes, but is not limited to, an analysis of parking
25 availability, differing levels of transit access, walkability access
26 to transit services, the potential for shared parking, the effect of
27 parking requirements on the cost of market-rate and subsidized
28 developments, and the lower rates of car ownership for low-income
29 and very low income individuals, including seniors and special
30 needs individuals. The city, county, or city and county shall pay
31 the costs of any new study. The city, county, or city and county
32 shall make findings, based on a parking study completed in
33 conformity with this paragraph, supporting the need for the higher
34 parking ratio.

35 (9) A request pursuant to this subdivision shall neither reduce
36 nor increase the number of incentives or concessions to which the
37 applicant is entitled pursuant to subdivision (d).

38 (q) Each component of any density calculation, including base
39 density and bonus density, resulting in fractional units shall be

1 separately rounded up to the next whole number. The Legislature
2 finds and declares that this provision is declaratory of existing law.

3 (r) This chapter shall be interpreted liberally in favor of
4 producing the maximum number of total housing units.

5 (s) (1) *The Legislature finds and declares that the intent behind*
6 *the Density Bonus Law is to allow public entities to reduce or even*
7 *eliminate subsidies for a particular project by allowing a developer*
8 *to include more total units in a project than would otherwise be*
9 *allowed by the local zoning ordinance in exchange for affordable*
10 *units. It further reaffirms that the intent is to cover at least some*
11 *of the financing gap of affordable housing with regulatory*
12 *incentives, rather than additional public subsidy.*

13 (2) *It is therefore the intent of the Legislature to make*
14 *modifications to the Density Bonus Law by the act adding this*
15 *subdivision to further incentivize the construction of very low,*
16 *low-, and moderate-income housing units. It is further the intent*
17 *of the Legislature in making these modifications to the Density*
18 *Bonus Law to ensure that any additional benefits conferred upon*
19 *a developer are balanced with the receipt of a public benefit in*
20 *the form of adequate levels of affordable housing. The Legislature*
21 *further intends that these modifications will ensure that the Density*
22 *Bonus Law creates incentives for the construction of more housing*
23 *across all areas of the state.*

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 a local agency or school district has the authority to levy service
27 charges, fees, or assessments sufficient to pay for the program or
28 level of service mandated by this act, within the meaning of Section
29 17556 of the Government Code.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only