

AMENDED IN SENATE MAY 27, 2020

AMENDED IN SENATE MAY 18, 2020

AMENDED IN SENATE MARCH 24, 2020

**SENATE BILL**

**No. 1085**

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

***(Coauthors: Senators Hill and Roth)***

February 19, 2020

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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
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:  
9

10	Percentage Very Low Income	Percentage Density Bonus
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.