

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2501

**Introduced by Assembly Members Bloom and Low
(Coauthor: Assembly Member Daly)**

February 19, 2016

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Bloom. Housing: density bonuses.

Existing law, the Planning and Zoning Law, requires, when an applicant proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer 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, among other things, agrees to construct a specified percentage of units for very low-, low-, or moderate-income households or qualifying residents. *Existing law authorizes the waiver or reduction of development standards that would preclude this development.* Existing law requires continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. Existing law requires a city, county, or city and county to adopt an ordinance to implement these requirements and to establish procedures to carry them out.

This bill would *revise and recast these provisions* to require the local government to adopt procedures and timelines for processing a density bonus application, provide a list of documents and information required to be submitted with the application in order for it to be deemed complete, and notify the applicant whether it is complete. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would prohibit a local government from requiring additional reports or studies to be prepared by the developer as a condition of the application. The bill would additionally require each component of any density calculation that results in fractional units to be rounded up to the next whole number, and would provide that this provision is declaratory of existing law.

Existing law defines the term “density bonus” for these purposes to mean a density increase over the otherwise maximum allowable residential density as of the date of the application and provides that the applicant may elect to accept a lesser percentage of density bonus.

This bill would specify that the term “density bonus” means a density increase over the maximum allowable gross residential density at the time of the date of the application, ~~and would provide that an applicant may elect to accept or, if elected by the applicant, a lesser percentage of density increase or no density bonus. The bill would additionally provide that the term “density bonus” includes any incentive or concession, or waiver or reduction of development standard, provided to the applicant for the production of housing units and child care facilities, as provided.~~ *increase in density.*

Existing law requires a local government to provide the applicant for a density bonus with incentives or concessions for the production of housing units and child care facilities, as specified.

~~The bill would additionally require the local government to provide the applicant with a waiver or reduction of development standards, as specified.~~

Existing law requires a local government to grant a proposal for specific incentives or concessions requested by an applicant unless the local government makes written findings, based on substantial evidence, that, among other things, the concession or incentive is not required in order to provide affordable housing costs or for rents for the targeted units, as specified.

This bill would, instead, provide that the local government is required to provide the requested concessions or incentives unless it finds, based on substantial evidence, that the concession or incentive does not reduce

the cost of development to provide for affordable housing costs or rents for the targeted units.

Existing law defines the term “housing development” for these purposes to mean a development project for five or more residential units.

This bill would expand that definition to include mixed-use housing, ~~as specified.~~ *housing.*

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 65915 of the Government Code is
2 amended to read:

3 65915. (a) (1) When an applicant seeks a density bonus for
4 a housing development within, or for the donation of land for
5 housing within, the jurisdiction of a city, county, or city and county,
6 that local government shall ~~provide the applicant with incentives,~~
7 ~~concessions, or waiver and reduction of development standards~~
8 ~~for the production of housing units and child care facilities as~~
9 ~~prescribed in~~ *comply with* this section. A city, county, or city and
10 county shall adopt an ordinance that specifies how compliance
11 with this section will be implemented. Failure to adopt an ordinance
12 shall not relieve a city, county, or city and county from complying
13 with this section.

14 (2) A local government shall not condition the submission,
15 review, or approval of an application for a density bonus pursuant
16 to this chapter on the preparation of an additional report or study
17 that is not otherwise ~~described in this section.~~ *required by state*
18 *law, including this section.*

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

22 (A) Adopt procedures and timelines for processing a density
23 bonus application.

1 (B) Provide a list of all documents and information required to
2 be submitted with the density bonus application in order for the
3 density bonus application to be deemed complete. This list shall
4 be consistent with this chapter.

5 (C) Notify the applicant for a density bonus whether the
6 application is complete in a manner consistent with Section 65943.

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~~ incentives or concessions, as described in subdivision (d),
10 *waivers or reductions of development standards, as described in*
11 *subdivision (e), and parking ratios, as described in subdivision*
12 *(p).* when an applicant for a housing development seeks and agrees
13 to construct a housing development, excluding any units permitted
14 by the density bonus awarded pursuant to this section, that will
15 contain at least any one of the following:

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

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

22 (C) A senior citizen housing development, as defined in Sections
23 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
24 residency based on age requirements for housing for older persons
25 pursuant to Section 798.76 or 799.5 of the Civil Code.

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

31 (2) For purposes of calculating the amount of the density bonus
32 pursuant to subdivision (f), an applicant who requests a density
33 bonus pursuant to this subdivision shall elect whether the bonus
34 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
35 of paragraph (1).

36 (3) For the purposes of this section, “total units” or “total
37 dwelling units” does not include units added by a density bonus
38 awarded pursuant to this section or any local law granting a greater
39 density bonus.

1 (c) (1) An applicant shall agree to, and the city, county, or city
2 and county shall ensure, the continued affordability of all very low
3 and low-income rental units that qualified the applicant for the
4 award of the density bonus for 55 years or a longer period of time
5 if required by the construction or mortgage financing assistance
6 program, mortgage insurance program, or rental subsidy program.
7 Rents for the lower income density bonus units shall be set at an
8 affordable rent as defined in Section 50053 of the Health and Safety
9 Code.

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

20 (A) Upon resale, the seller of the unit shall retain the value of
21 any improvements, the downpayment, and the seller's proportionate
22 share of appreciation. The local government shall recapture any
23 initial subsidy, as defined in subparagraph (B), and its proportionate
24 share of appreciation, as defined in subparagraph (C), which
25 amount shall be used within five years for any of the purposes
26 described in subdivision (e) of Section 33334.2 of the Health and
27 Safety Code that promote home ownership.

28 (B) For purposes of this subdivision, the local government's
29 initial subsidy shall be equal to the fair market value of the home
30 at the time of initial sale minus the initial sale price to the
31 moderate-income household, plus the amount of any downpayment
32 assistance or mortgage assistance. If upon resale the market value
33 is lower than the initial market value, then the value at the time of
34 the resale shall be used as the initial market value.

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

39 (3) (A) An applicant shall be ineligible for a density bonus or
40 any other incentives or concessions under this section if the housing

1 development is proposed on any property that includes a parcel or
2 parcels on which rental dwelling units are or, if the dwelling units
3 have been vacated or demolished in the five-year period preceding
4 the application, have been subject to a recorded covenant,
5 ordinance, or law that restricts rents to levels affordable to persons
6 and families of lower or very low income; subject to any other
7 form of rent or price control through a public entity's valid exercise
8 of its police power; or occupied by lower or very low income
9 households, unless the proposed housing development replaces
10 those units, and either of the following applies:

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

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

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

19 (i) If any dwelling units described in subparagraph (A) are
20 occupied on the date of application, the proposed housing
21 development shall provide at least the same number of units of
22 equivalent size or type, or both, to be made available at affordable
23 rent or affordable housing cost to, and occupied by, persons and
24 families in the same or lower income category as those households
25 in occupancy. For unoccupied dwelling units described in
26 subparagraph (A) in a development with occupied units, the
27 proposed housing development shall provide units of equivalent
28 size or type, or both, to be made available at affordable rent or
29 affordable housing cost to, and occupied by, persons and families
30 in the same or lower income category in the same proportion of
31 affordability as the occupied units. All replacement calculations
32 resulting in fractional units shall be rounded up to the next whole
33 number. If the replacement units will be rental dwelling units,
34 these units shall be subject to a recorded affordability restriction
35 for at least 55 years. If the proposed development is for-sale units,
36 the units replaced shall be subject to paragraph (2).

37 (ii) If all dwelling units described in subparagraph (A) have
38 been vacated or demolished within the five-year period preceding
39 the application, the proposed housing development shall provide
40 at least the same number of units of equivalent size or type, or

1 both, as existed at the highpoint of those units in the five-year
2 period preceding the application to be made available at affordable
3 rent or affordable housing cost to, and occupied by, persons and
4 families in the same or lower income category as those persons
5 and families in occupancy at that time, if known. If the incomes
6 of the persons and families in occupancy at the highpoint is not
7 known, then one-half of the required units shall be made available
8 at affordable rent or affordable housing cost to, and occupied by,
9 very low income persons and families and one-half of the required
10 units shall be made available for rent at affordable housing costs
11 to, and occupied by, low-income persons and families. All
12 replacement calculations resulting in fractional units shall be
13 rounded up to the next whole number. If the replacement units will
14 be rental dwelling units, these units shall be subject to a recorded
15 affordability restriction for at least 55 years. If the proposed
16 development is for-sale units, the units replaced shall be subject
17 to paragraph (2).

18 (C) Paragraph (3) of subdivision (c) does not apply to an
19 applicant seeking a density bonus for a proposed housing
20 development if his or her application was submitted to, or
21 processed by, a city, county, or city and county before January 1,
22 2015.

23 (d) (1) An applicant for a density bonus pursuant to subdivision
24 (b) may submit to a city, county, or city and county a proposal for
25 the specific incentives or concessions that the applicant requests
26 pursuant to this section, and may request a meeting with the city,
27 county, or city and county. The city, county, or city and county
28 shall grant the concession or incentive requested by the applicant
29 unless the city, county, or city and county makes a written finding,
30 based upon substantial evidence, of any of the following:

31 (A) The concession or incentive does not reduce the cost of
32 development to provide for affordable housing costs, as defined
33 in Section 50052.5 of the Health and Safety Code, or for rents for
34 the targeted units to be set as specified in subdivision (c).

35 (B) The concession or incentive would have a specific adverse
36 impact, as defined in paragraph (2) of subdivision (d) of Section
37 65589.5, upon public health and safety or the physical environment
38 or on any real property that is listed in the California Register of
39 Historical Resources and for which there is no feasible method to
40 satisfactorily mitigate or avoid the specific adverse impact without

1 rendering the development unaffordable to low- and
2 moderate-income households.

3 (C) The concession or incentive would be contrary to state or
4 federal law.

5 (2) The applicant shall receive the following number of
6 incentives or concessions:

7 (A) One incentive or concession for projects that include at least
8 10 percent of the total units for lower income households, at least
9 5 percent for very low income households, or at least 10 percent
10 for persons and families of moderate income in a common interest
11 development.

12 (B) Two incentives or concessions for projects that include at
13 least 20 percent of the total units for lower income households, at
14 least 10 percent for very low income households, or at least 20
15 percent for persons and families of moderate income in a common
16 interest development.

17 (C) Three incentives or concessions for projects that include at
18 least 30 percent of the total units for lower income households, at
19 least 15 percent for very low income households, or at least 30
20 percent for persons and families of moderate income in a common
21 interest development.

22 (3) The applicant may initiate judicial proceedings if the city,
23 county, or city and county refuses to grant a requested density
24 bonus, incentive, or concession. If a court finds that the refusal to
25 grant a requested density bonus, incentive, or concession is in
26 violation of this section, the court shall award the plaintiff
27 reasonable attorney's fees and costs of suit. Nothing in this
28 subdivision shall be interpreted to require a local government to
29 grant an incentive or concession that has a specific, adverse impact,
30 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
31 upon health, safety, or the physical environment, and for which
32 there is no feasible method to satisfactorily mitigate or avoid the
33 specific adverse impact. Nothing in this subdivision shall be
34 interpreted to require a local government to grant an incentive or
35 concession that would have an adverse impact on any real property
36 that is listed in the California Register of Historical Resources.
37 The city, county, or city and county shall establish procedures for
38 carrying out this section, that shall include legislative body
39 approval of the means of compliance with this section.

1 (4) The city, county, or city and county shall bear the burden
2 of proof for the denial of a requested concession or incentive.
3 ~~Denial of a requested concession or incentive shall be deemed to~~
4 ~~have exhausted an applicant's administrative remedies for purposes~~
5 ~~of paragraph (3) of subdivision (d) or subdivision (e).~~

6 (e) (1) In no case may a city, county, or city and county apply
7 any development standard that will have the effect of physically
8 precluding the construction of a development meeting the criteria
9 of subdivision (b) at the densities or with the concessions or
10 incentives permitted by this section. An applicant may submit to
11 a city, county, or city and county a proposal for the waiver or
12 reduction of development standards that will have the effect of
13 physically precluding the construction of a development meeting
14 the criteria of subdivision (b) at the densities or with the
15 concessions or incentives permitted under this section, and may
16 request a meeting with the city, county, or city and county. If a
17 court finds that the refusal to grant a waiver or reduction of
18 development standards is in violation of this section, the court
19 shall award the plaintiff reasonable attorney's fees and costs of
20 suit. Nothing in this subdivision shall be interpreted to require a
21 local government to waive or reduce development standards if the
22 waiver or reduction would have a specific, adverse impact, as
23 defined in paragraph (2) of subdivision (d) of Section 65589.5,
24 upon health, safety, or the physical environment, and for which
25 there is no feasible method to satisfactorily mitigate or avoid the
26 specific adverse impact. Nothing in this subdivision shall be
27 interpreted to require a local government to waive or reduce
28 development standards that would have an adverse impact on any
29 real property that is listed in the California Register of Historical
30 Resources, or to grant any waiver or reduction that would be
31 contrary to state or federal law.

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

36 (f) ~~(1)~~ For the purposes of this chapter, "density bonus" means
37 a density increase over the otherwise maximum allowable gross
38 residential density as of the date of application by the applicant to
39 the city, county, or city and county. ~~The applicant may elect to~~
40 ~~accept county, or, if elected by the applicant,~~ a lesser percentage

1 of density ~~bonus~~; *increase*, including, but not limited to, no increase
 2 in density. The amount of density ~~bonus~~ *increase* to which the
 3 applicant is entitled shall vary according to the amount by which
 4 the percentage of affordable housing units exceeds the percentage
 5 established in subdivision (b).

6 ~~(A)~~

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

10	11 Percentage Low-Income Units	12 Percentage Density Bonus
13	10	20
14	11	21.5
15	12	23
16	13	24.5
17	14	26
18	15	27.5
19	17	30.5
20	18	32
21	19	33.5
22	20	35

23
24 ~~(B)~~

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

28	29 Percentage Very Low Income Units	30 Percentage Density Bonus
31	5	20
32	6	22.5
33	7	25
34	8	27.5
35	9	30
36	10	32.5
37	11	35

38 ~~(C)~~

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

4 ~~(D)~~

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

	Percentage Moderate-Income Units	Percentage Density Bonus
10	10	5
11	11	6
12	12	7
13	13	8
14	14	9
15	15	10
16	16	11
17	17	12
18	18	13
19	19	14
20	20	15
21	21	16
22	22	17
23	23	18
24	24	19
25	25	20
26	26	21
27	27	22
28	28	23
29	29	24
30	30	25
31	31	26
32	32	27
33	33	28
34	34	29
35	35	30
36	36	31
37	37	32
38	38	33
39	39	34
40	40	35

1 ~~(E)~~
 2 (5) All density calculations resulting in fractional units shall be
 3 rounded up to the next whole number. The granting of a density
 4 bonus shall not require, or be interpreted, in and of itself, to require
 5 a general plan amendment, local coastal plan amendment, zoning
 6 change, or other discretionary approval.

7 ~~(2) The term “density bonus” shall also include any incentive~~
 8 ~~or concession, or waiver or reduction of development standard,~~
 9 ~~provided to the applicant for the production of housing units and~~
 10 ~~child care facilities, as provided in this section.~~

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

	Percentage Very Low Income	Percentage Density Bonus
17		
18		
19	10	15
20	11	16
21	12	17
22	13	18
23	14	19
24	15	20
25	16	21
26	17	22
27	18	23
28	19	24
29	20	25
30	21	26
31	22	27
32	23	28
33	24	29
34	25	30
35	26	31
36	27	32
37	28	33
38	29	34
39	30	35
40		

1 (2) This increase shall be in addition to any increase in density
2 mandated by subdivision (b), up to a maximum combined mandated
3 density increase of 35 percent if an applicant seeks an increase
4 pursuant to both this subdivision and subdivision (b). All density
5 calculations resulting in fractional units shall be rounded up to the
6 next whole number. Nothing in this subdivision shall be construed
7 to enlarge or diminish the authority of a city, county, or city and
8 county to require a developer to donate land as a condition of
9 development. An applicant shall be eligible for the increased
10 density bonus described in this subdivision if all of the following
11 conditions are met:

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

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

20 (C) The transferred land is at least one acre in size or of
21 sufficient size to permit development of at least 40 units, has the
22 appropriate general plan designation, is appropriately zoned with
23 appropriate development standards for development at the density
24 described in paragraph (3) of subdivision (c) of Section 65583.2,
25 and is or will be served by adequate public facilities and
26 infrastructure.

27 (D) The transferred land shall have all of the permits and
28 approvals, other than building permits, necessary for the
29 development of the very low income housing units on the
30 transferred land, not later than the date of approval of the final
31 subdivision map, parcel map, or residential development
32 application, except that the local government may subject the
33 proposed development to subsequent design review to the extent
34 authorized by subdivision (i) of Section 65583.2 if the design is
35 not reviewed by the local government prior to the time of transfer.

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

1 (F) The land is transferred to the local agency or to a housing
2 developer approved by the local agency. The local agency may
3 require the applicant to identify and transfer the land to the
4 developer.

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

8 (H) A proposed source of funding for the very low income units
9 shall be identified not later than the date of approval of the final
10 subdivision map, parcel map, or residential development
11 application.

12 (h) (1) When an applicant proposes to construct a housing
13 development that conforms to the requirements of subdivision (b)
14 and includes a child care facility that will be located on the
15 premises of, as part of, or adjacent to, the project, the city, county,
16 or city and county shall grant either of the following:

17 (A) An additional density bonus that is an amount of square
18 feet of residential space that is equal to or greater than the amount
19 of square feet in the child care facility.

20 (B) An additional concession or incentive that contributes
21 significantly to the economic feasibility of the construction of the
22 child care facility.

23 (2) The city, county, or city and county shall require, as a
24 condition of approving the housing development, that the following
25 occur:

26 (A) The child care facility shall remain in operation for a period
27 of time that is as long as or longer than the period of time during
28 which the density bonus units are required to remain affordable
29 pursuant to subdivision (c).

30 (B) Of the children who attend the child care facility, the
31 children of very low income households, lower income households,
32 or families of moderate income shall equal a percentage that is
33 equal to or greater than the percentage of dwelling units that are
34 required for very low income households, lower income
35 households, or families of moderate income pursuant to subdivision
36 (b).

37 (3) Notwithstanding any requirement of this subdivision, a city,
38 county, or city and county shall not be required to provide a density
39 bonus or concession for a child care facility if it finds, based upon

1 substantial evidence, that the community has adequate child care
2 facilities.

3 (4) “Child care facility,” as used in this section, means a child
4 day care facility other than a family day care home, including, but
5 not limited to, infant centers, preschools, extended day care
6 facilities, and schoolage child care centers.

7 (i) “Housing development,” as used in this section, means a
8 development project for five or more residential units, including
9 ~~mixed-use developments as defined in Section 65950.~~
10 *developments*. For the purposes of this section, “housing
11 development” also includes a subdivision or common interest
12 development, as defined in Section 4100 of the Civil Code,
13 approved by a city, county, or city and county and consists of
14 residential units or unimproved residential lots and either a project
15 to substantially rehabilitate and convert an existing commercial
16 building to residential use or the substantial rehabilitation of an
17 existing multifamily dwelling, as defined in subdivision (d) of
18 Section 65863.4, where the result of the rehabilitation would be a
19 net increase in available residential units. For the purpose of
20 calculating a density bonus, the residential units shall be on
21 contiguous sites that are the subject of one development
22 application, but do not have to be based upon individual
23 subdivision maps or parcels. The density bonus shall be permitted
24 in geographic areas of the housing development other than the
25 areas where the units for the lower income households are located.

26 (j) (1) The granting of a concession or incentive shall not require
27 or be interpreted, in and of itself, to require a general plan
28 amendment, local coastal plan amendment, zoning change, special
29 studies, or other discretionary approval. This provision is
30 declaratory of existing law.

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

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

37 (1) A reduction in site development standards or a modification
38 of zoning code requirements or architectural design requirements
39 that exceed the minimum building standards approved by the
40 California Building Standards Commission as provided in Part 2.5

1 (commencing with Section 18901) of Division 13 of the Health
2 and Safety Code, including, but not limited to, a reduction in
3 setback and square footage requirements and in the ratio of
4 vehicular parking spaces that would otherwise be required that
5 results in identifiable and actual cost reductions.

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

12 (3) Other regulatory incentives or concessions proposed by the
13 developer or the city, county, or city and county that result in
14 identifiable and actual cost reductions. In no case shall this include
15 an increase in density above the percentages specified in
16 subdivision (f).

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

21 (m) This section does not supersede or in any way alter or lessen
22 the effect or application of the California Coastal Act of 1976
23 (Division 20 (commencing with Section 30000) of the Public
24 Resources Code).

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

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

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

1 (2) “Maximum allowable residential density” means the density
2 allowed under the zoning ordinance and land use element of the
3 general plan, or if a range of density is permitted, means the
4 maximum allowable density for the specific zoning range and land
5 use element of the general plan applicable to the project. Where
6 the density allowed under the zoning ordinance is inconsistent
7 with the density allowed under the land use element of the general
8 plan, the general plan density shall prevail.

9 (p) (1) Except as provided in paragraphs (2) and (3), upon the
10 request of the developer, a city, county, or city and county shall
11 not require a vehicular parking ratio, inclusive of handicapped and
12 guest parking, of a development meeting the criteria of subdivisions
13 (b) and (c), that exceeds the following ratios:

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

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

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

17 (2) Notwithstanding paragraph (1), if a development includes
18 the maximum percentage of low- or very low income units
19 provided for in paragraphs (1) and (2) of subdivision (f) and is
20 located within one-half mile of a major transit stop, as defined in
21 subdivision (b) of Section 21155 of the Public Resources Code,
22 and there is unobstructed access to the major transit stop from the
23 development, then, upon the request of the developer, a city,
24 county, or city and county shall not impose a vehicular parking
25 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
26 spaces per bedroom. For purposes of this subdivision, a
27 development shall have unobstructed access to a major transit stop
28 if a resident is able to access the major transit stop without
29 encountering natural or constructed impediments.

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

37 (A) If the development is located within one-half mile of a major
38 transit stop, as defined in subdivision (b) of Section 21155 of the
39 Public Resources Code, and there is unobstructed access to the

1 major transit stop from the development, the ratio shall not exceed
2 0.5 spaces per unit.

3 (B) If the development is a for-rent housing development for
4 individuals who are 62 years of age or older that complies with
5 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
6 0.5 spaces per unit. The development shall have either paratransit
7 service or unobstructed access, within one-half mile, to fixed bus
8 route service that operates at least eight times per day.

9 (C) If the development is a special needs housing development,
10 as defined in Section 51312 of the Health and Safety Code, the
11 ratio shall not exceed 0.3 spaces per unit. The development shall
12 have either paratransit service or unobstructed access, within
13 one-half mile, to fixed bus route service that operates at least eight
14 times per day.

15 (4) If the total number of parking spaces required for a
16 development is other than a whole number, the number shall be
17 rounded up to the next whole number. For purposes of this
18 subdivision, a development may provide on-site parking through
19 tandem parking or uncovered parking, but not through on-street
20 parking.

21 (5) This subdivision shall apply to a development that meets
22 the requirements of subdivisions (b) and (c), but only at the request
23 of the applicant. An applicant may request parking incentives or
24 concessions beyond those provided in this subdivision pursuant
25 to subdivision (d).

26 (6) This subdivision does not preclude a city, county, or city
27 and county from reducing or eliminating a parking requirement
28 for development projects of any type in any location.

29 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
30 city and county, or an independent consultant has conducted an
31 areawide or jurisdictionwide parking study in the last seven years,
32 then the city, county, or city and county may impose a higher
33 vehicular parking ratio not to exceed the ratio described in
34 paragraph (1), based upon substantial evidence found in the parking
35 study, that includes, but is not limited to, an analysis of parking
36 availability, differing levels of transit access, walkability access
37 to transit services, the potential for shared parking, the effect of
38 parking requirements on the cost of market-rate and subsidized
39 developments, and the lower rates of car ownership for low- and
40 very low income individuals, including seniors and special needs

1 individuals. The city, county, or city and county shall pay the costs
2 of any new study. The city, county, or city and county shall make
3 findings, based on a parking study completed in conformity with
4 this paragraph, supporting the need for the higher parking ratio.

5 (8) *A request pursuant to this subdivision shall neither reduce*
6 *nor increase the number of incentives or concessions to which the*
7 *applicant is entitled pursuant to subdivision (d).*

8 (q) Each component of any density calculation, including base
9 density and bonus density, resulting in fractional units shall by
10 separately rounded up to the next whole number. The Legislature
11 finds and declares that this provision is declaratory of existing law.

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

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of Section
19 17556 of the Government Code.