

This bill is sponsored by the Western Center on Law and Poverty and the California Rural Legal Assistance Foundation.

- 2) **Author's Statement.** According to the author, "California remains one of the most expensive housing markets in the United States. Through the loss of redevelopment agencies and reductions in state and federal housing funding, fewer resources are available to address this need. One tool for increasing affordable housing production is through regulatory incentives that reduce barriers to the production of affordable housing and encourage market-based solutions. State Density Bonus law (Government Code Sections 65915 – 65918) provides concessions and incentives to housing developers who agree to make a percentage of the units in their development affordable to low- and moderate-income households. However, the law has a number of ambiguous provisions that discourage developers from utilizing it, or are used by local governments to prevent developers from accessing the law.

"Developers and local governments need certainty in order for Density Bonus law to be an effective incentive to produce affordable housing. Right now that certainty is lacking. AB 2501 would strengthen state Density Bonus law to help encourage market rate developers to include affordable units within residential developments, and reduce costs for affordable housing developers. AB 2501 would address a number of these ambiguous provisions and strengthen the incentives."

- 3) **Background.** Density bonus law was originally enacted in 1979, but has been changed numerous times since. The Legislature enacted the density bonus law to help address the affordable housing shortage and to encourage development of more low- and moderate-income housing units. Nearly forty years later, the Legislature faces the same challenges. Density bonus is a tool to encourage the production of affordable housing by market rate developers, although it is used by developers building 100% affordable developments as well. In return for inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density and concessions and incentives. The increase in density and concessions and incentives are intended to financially support the inclusion of the affordable units. Because of numerous amendments over the years, state density bonus law is confusing and subject to interpretation by both developers and cities as to its meaning.

All local governments are required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus on top of the cities zoned density in exchange for including extremely low-, very low-, low-, and moderate-income housing. Failure to adopt an ordinance does not relieve a local government from complying with state density bonus law. Local governments must grant a density bonus, when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least any one of the following:

- a) 10% of the total units for lower-income households;
- b) 5% of the total units of a housing for very low-income households;
- c) A senior citizen housing development or mobilehome park; and,
- d) 10% of the units in a common-interest development (CID) for moderate-income households.

A developer can submit a request to a local government as part of their density bonus application for incentives and concessions. Developers can receive the following number of incentives or concessions:

- a) One incentive or concession for projects that include at least 10% of the total units for lower-income households, at least 5% for very low-income households, or at least 10% for moderate-income households in a common interest development
 - b) Two incentives or concessions for projects with at least 20% lower-income households, at least 10% for very low-income households, or at least 20% for moderate-income households in common interest developments.
 - c) Three incentives or concessions for projects with at least 30% lower-income households, at least 15% for very low-income households, or at least 30% for moderate-income households in common interest developments.
- 4) **Arguments in Support.** According to the sponsors, Western Center on Law and Poverty and the California Rural Legal Assistance Foundation, "AB 2501 is one piece of a multi-pronged effort by legislators, housing advocates, and other organizations to address California's unfortunate dominance of the list of the country's least-affordable housing markets. By reducing regulatory barriers to housing development, this bill would stretch any increase in state housing funding further and would induce market-rate developers to build below-market units without any public funding."
- 5) **Arguments in Opposition.** Opponents argue that this bill contains provisions that would limit the ability of a city to interpret its own development standards, diminish the role of planning commissions and impose unrealistic timeframes.
- 6) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on April 13, 2016, where it passed with a 5-1 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation [SPONSOR]
 Western Center on Law and Poverty [SPONSOR]
 California Apartment Association
 California Association of Realtors
 California Housing Consortium

Opposition

California State Association of Counties
 Cities of Fontana and Torrance (based on 4/5/2016 version)
 League of California Cities (based on 4/5/2016 version)

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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 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 require the ~~ordinance to include~~ *local government to adopt* procedures and timelines for processing a density bonus application, ~~as specified, as well as~~ *provide* a list of documents and

information required to be submitted with the application in order for it to be deemed ~~complete~~. *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 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.

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.

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 this section. A city, county, or city and county shall
10 adopt an ordinance that specifies how compliance with this section
11 will be implemented. Failure to adopt an ordinance shall not relieve
12 a city, county, or city and county from complying with this section.
13 ~~The local government shall not require public notice or hold a~~
14 ~~public hearing on the application. Acting on the application shall~~
15 ~~be considered a ministerial act.~~

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

20 (3) In order to provide for the expeditious processing of a density
21 bonus application, ~~the ordinance required pursuant to this~~
22 ~~subdivision~~ *local government shall include do* all of the following:

23 (A) ~~Procedures~~ *Adopt procedures* and timelines for processing
24 a density bonus application.

1 (B) ~~A~~ Provide a list of all documents and information required
 2 to 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) ~~A procedure to notify~~ Notify the applicant within 30 days
 6 of receipt of the application that for a density bonus whether the
 7 application is complete or that an additional item is required to
 8 complete the application. If an additional item is required, it shall
 9 be identified in this notice. If the local government does not provide
 10 this notice within 30 days, then the application shall be deemed
 11 complete. *complete in a manner consistent with Section 65943.*

12 (D) ~~A procedure to make a final determination on the density~~
 13 ~~bonus application no later than 60 days from the date when the~~
 14 ~~density bonus application is deemed complete. If the local~~
 15 ~~government does not make a final determination within this time,~~
 16 ~~the density bonus application shall be deemed approved.~~

17 (b) (1) A city, county, or city and county shall grant one density
 18 bonus, the amount of which shall be as specified in subdivision
 19 (f), and incentives or concessions, as described in subdivision (d),
 20 when an applicant for a housing development seeks and agrees to
 21 construct a housing development, excluding any units permitted
 22 by the density bonus awarded pursuant to this section, that will
 23 contain at least any one of the following:

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

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

30 (C) A senior citizen housing development, as defined in Sections
 31 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
 32 residency based on age requirements for housing for older persons
 33 pursuant to Section 798.76 or 799.5 of the Civil Code.

34 (D) Ten percent of the total dwelling units in a common interest
 35 development, as defined in Section 4100 of the Civil Code, for
 36 persons and families of moderate income, as defined in Section
 37 50093 of the Health and Safety Code, provided that all units in the
 38 development are offered to the public for purchase.

39 (2) For purposes of calculating the amount of the density bonus
 40 pursuant to subdivision (f), an applicant who requests a density

