

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 1934 (Santiago) – As Amended April 14, 2016

**SUBJECT:** Planning and zoning: density bonuses: mixed-use projects.

**SUMMARY:** Creates a density bonus for commercial developers that partner with an affordable housing developer to construct a mixed-used development. Specifically, **this bill:**

- 1) Requires, when an applicant for approval for commercial development agrees to partner with an affordable housing developer to construct a mixed-use project for which the housing will be located onsite and the proposed commercial development, the city, county, or city and county shall, in addition to any density bonus and incentives or concessions granted to the affordable housing developer pursuant to existing law, to grant a density bonus pursuant to 2), below, to the commercial developer.
- 2) Specifies that the density bonus granted to the commercial developer shall mean exceptions resulting in significant cost reductions over the maximum allowable intensity in the general plan, zoning ordinance, or other regulation of the city, county, or city and county, including, but not limited to, floor area ratios, and may include modification to development standards, such as height and parking requirements.
- 3) States that the Legislature finds and declares that the development of affordable housing is a matter of statewide concern and is not a municipal affair, as specified, and that the bill's provisions apply to all cities, including charter cities.
- 4) States that no reimbursement is required because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, as specified.

**EXISTING LAW:**

- 1) Defines “density bonus” as a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the local government.
- 2) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law.
- 3) Requires local governments to 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 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.
- 4) Requires that the applicant agree to continued affordability of all low- and very low-income units that qualified the applicant for the density bonus for at least 30 years.
  - 5) Specifies that concessions or incentives may include the following:
    - a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards;
    - b) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and are compatible with the project and the surrounding area; and,
    - c) Other regulatory incentives or concessions proposed by the developer or the local government that result in identifiable, financially sufficient, and actual cost reductions.
  - 6) Requires local governments to provide applicants with 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 persons and families of moderate income in a common interest development;
    - b) Two incentives or concessions for projects that include at least 20% of the total units for lower-income households, at least 10% for very low-income households, or at least 20% for persons and families of moderate income in a common interest development.
    - c) Three incentives or concessions for projects that include at least 30% of the total units for lower-income households, at least 15% for very low-income households, or at least 30% for persons and families of moderate income in a common interest development.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires, when an applicant for approval for commercial development agrees to partner with an affordable housing developer to construct a mixed-use project for which the housing will be located onsite and the proposed commercial development, the city, county, or city and county to, in addition to any density bonus and incentives or concessions granted to the affordable housing developer pursuant to existing law, to grant a density bonus to the commercial developer. Additionally, the bill specifies that the density bonus granted to the commercial developer shall mean exceptions resulting in significant cost reductions over the maximum allowable intensity in the general plan, zoning ordinance, or other regulation of the city, county, or city and county, including, but not limited to, floor area ratios, and may include modification to development standards, such as height and parking requirements. The bill also finds and declares that the development of

affordable housing is a matter of statewide concern and is not a municipal affair, thereby applying the provisions of the bill to all cities, including charter cities.

This bill is an author-sponsored measure.

- 2) **Author's Statement.** According to the author, "Local governments can be wary of high density residential development because of the corresponding increase in demand for public services and infrastructure. In an era of tight budgets, local governments are also more likely to approve commercial developments which will increase revenues.

"AB 1934 seeks to marry these two needs: a) the state's need for affordable housing; and b) local governments' desire for increased revenues, by encouraging non-traditional housing developers to enter the market and think outside the box in their developments."

- 3) **Background.** In 1979, the Legislature enacted density bonus law to help address the affordable housing shortage and to encourage development of more low- and moderate-income housing units. Density bonus is a tool to encourage the production of affordable housing that is used by both market rate and affordable housing developers. 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 to offset the cost of the affordable units which will be offered at a lower rent, as low as 30% of area median income. Developers that seek a density bonus must agree to restrict very low- and low-income rental units to affordable levels for 55 years.

State law specifies concessions and incentives that a local government may include in its density bonus ordinance, including a reduction in site development standards, or a modification of zoning code requirements, or architectural design requirements that exceed the minimum building standards, and approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and are compatible with the project and the surrounding area. A developer or city can also propose other regulatory incentives or concessions that result in identifiable, financially sufficient, and actual cost reductions.

- 4) **Arguments in Support.** Supporters argue that the bill's proposed solution meets the needs of local governments for economic development, along with the construction of affordable housing for the individuals and families who work in our communities and will be helpful to encourage affordable housing construction.
- 5) **Arguments in Opposition.** Opponents are concerned that the new statutory framework proposed by the bill may result in requests for local agency concessions that may not be warranted, or which may unnecessarily limit authority to review development applications and ensure consistency with local plans. Opposition also points to the lack of definitions for "commercial" development and "partners" in the bill.
- 6) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on April 13, 2016, where it passed with a 6-0 vote.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Apartment Association  
California Association of Realtors  
California Council for Affordable Housing

**Concerns**

California State Association of Counties  
Housing California

**Opposition**

American Planning Association, California Chapter  
League of California Cities

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958