

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1763 (Chiu) – As Amended March 28, 2019

SUBJECT: Planning and zoning: density bonuses: affordable housing.

SUMMARY: Requires a city or county to award a developer additional density, concessions, and incentives, if 100% of the units in a development are restricted to lower-income households. Specifically, **this bill:**

1) Modifies density bonus law as follows:

- a) Requires, when an applicant for a density bonus proposes a development that includes 100% of the total units, exclusive of a manager's unit or units, to be for lower income households, as defined, the city or county to provide the following:
 - i) Four incentives and concessions;
 - ii) A density bonus that is 80% of the number of units for lower income households;
 - iii) For housing developments within one-half mile of a "major transit stop," the city or county shall:
 - (1) Not impose any maximum controls on density;
 - (2) Allow a height increase of up to three additional stories or 33 feet; and,
 - (3) Allow an increase in the allowable floor area ratio of up to 55% relative to the underlying limit or 4.25, whichever is greater.
 - iv) For a housing development within one-half mile of a "high quality transit corridor", a city or county shall:
 - (1) Not impose any maximum controls on density;
 - (2) Allow a height increase up to two additional stories, or 22 feet; and,
 - (3) Allow an increase in the floor area ratio of up to 50% relative to the underlying limit or 3.75, whichever is greater.
- b) Defines the following terms:
 - i) "Major transit stop" to mean a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods; and,
 - ii) "High quality transit corridor" to mean a corridor with a fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Density Bonus Law.** Originally enacted in 1979, density bonus law was created to help address the affordable housing shortage and to encourage development of more low and moderate income housing units. It 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 the inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density, as well as other concessions and incentives, which are intended to support the inclusion of the affordable units.

All local governments are required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus. Failure to adopt an ordinance does not mean a city or county does not have to comply with the law. As part of the density bonus application, a developer may also request incentives, concessions and parking ratio reductions, which can vary depending on the percentage and type of affordable housing included in the project.

- 2) **Bill Summary and Author's Statement.** Under existing law, the maximum density a developer can access is a 35% density bonus and three concessions and incentives. To qualify for a 35% density bonus, a developer must restrict either 11% of the units in a development to very low income, or 20% to lower income. If a developer restricts 100% of the units to lower income households, the developer receives no additional density bonus.

This bill gives all 100% affordable development an 80% density bonus, and would give 100% affordable developments near transit additional height increases and floor area ratio increases.

This bill is sponsored by the California Housing Consortium.

According to the author, "In the midst of our state housing crisis, AB 1763 would create more affordable housing by giving 100% affordable housing developments an enhanced density bonus. Zoning is often a barrier to housing development. Existing zoning - density and height - are often too low for affordable housing developments to pencil out. After years of no funding for affordable housing, we now have new resources and we need to make every dollar count. For affordable housing developers, more density can make a project financially feasible and give a developer the opportunity to compete for a site against a market rate developer. AB 1763 gives 100% affordable housing developments an 80% density bonus above existing zoned density and four incentives or concessions. One-hundred percent affordable housing developments near transit would be eligible for an unlimited density bonus plus an increase in height or the floor area ratios, up to a limit. We need to act quickly to increase the supply of affordable housing. AB 1763 gives developers additional density which equals more units."

- 3) **Arguments in Support.** Supporters argue that the changes in the bill will increase the number of affordable units available to ensure that a maximum number of units are being built to help California reach its goal of adding 1.5 million affordable units.

- 4) **Arguments in Opposition.** The League of Cities writes that this bill “would alter existing land use policies based on transit service that is not under the authority of local jurisdictions” and that “granting a developer an unlimited density bonus and three additional stories is too extreme in many communities...such an expansion of [density bonus law] will undermine a city’s state-certified housing element and community-based housing plans.”
- 5) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 10, 2019, and passed with an 8-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Consortium [SPONSOR]
 Abode Communities
 Affirmed Housing
 Aids Healthcare Foundation
 C&C Development
 California Housing Consortium
 California Rural Legal Assistance Foundation
 City of San Diego
 Corporation for Supportive Housing
 Dan Kalb, City Councilmember, City of Oakland
 EAH Housing
 Habitat for Humanity California
 Housing California
 Many Mansions
 Palm Communities
 Silicon Valley at Home (Sv@Home)
 Telacu
 The Pacific Companies
 The Kennedy Commission
 Wakeland Housing And Community Development Corporation
 Western Center On Law & Poverty, Inc.

Opposition

League of California Cities (unless amended)

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