

Date of Hearing: June 20, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1227 (Skinner) – As Amended June 13, 2018

SENATE VOTE: 37-1

SUBJECT: Density bonuses.

SUMMARY: Creates a density bonus for developers that seek and agree to construct a student housing development that will restrict 20% of the units to lower-income college students. Specifically, **this bill:**

- 1) Requires cities and counties to grant a 35% 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 20% of the total units for lower-income students in a student housing development that meets the following requirements:
 - a) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. Provides, in order to be eligible, that the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city or county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. Provides that an operating agreement or master lease is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units of the student housing development;
 - b) The applicable 20% units will be used for lower-income students, defined as students that have a household income and asset level that does not exceed the level for Cal Grant A or B award recipients. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission that the student receives or is eligible for financial aid from the university, the California Student Aid Commission, or the federal government;
 - c) Rents for lower-income students must be calculated at 30% of 65% of the area median income for a single-room occupancy unit type;
 - d) For purposes of calculating density, the term “unit” means one rental bed and its pro rata share of associated common area facilities. The units shall be subject to a recorded affordability restriction of 55 years; and,
 - e) Requires the development to provide priority for the applicable affordable units for lower-income students experiencing homelessness.

- 2) Finds and declares that 1), above, addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, and therefore this act applies to all cities, including charter cities.
- 3) States that no reimbursement is necessary 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.

EXISTING LAW:

- 1) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law.
- 2) Requires cities and counties 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) Ten percent of the total units of a housing development for lower-income households;
 - b) Five percent of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or mobile home park;
 - d) Ten percent of the units in a common interest development (CID) for moderate-income households; or,
 - e) Ten percent of the total units for transitional foster youth, disabled veterans, or homeless persons.
- 3) Requires the city or county to allow an increase in density of 20% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for low-income, very low-income, or senior housing, and by 5% for moderate-income housing in a CID.
- 4) Provides that, upon the developer's request, the local government may not require parking standards greater than the following (the developer may, however, request additional parking incentives or concessions):
 - a) Zero to one bedrooms: one onsite parking space;
 - b) Two to three bedrooms: two onsite parking spaces; and,
 - c) Four or more bedrooms: two and one-half parking spaces.
- 5) Provides that if a rental development is 100% affordable to lower-income families then, upon the request of a developer, a city, county, or city and county, the following parking ratios shall apply for the development:

- a) If the development is located within one-half mile of a “major transit stop” and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit;
 - b) If the development is a for-rent housing development for individuals who are 62 years of age or older, the ratio shall not exceed 0.5 spaces per unit; and,
 - c) If the development is a special needs housing development, the ratio shall not exceed 0.3 spaces per unit.
- 6) Requires applicants to 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;
 - b) Two incentives or concessions for projects that include at least 20% of the total units for lower-income households; and,
 - c) Three incentives or concessions for projects that include at least 30% of the total units for lower-income households.
- 7) Permits an applicant to submit to a local government a proposal for the specific incentives or concessions that the applicant requests, as specified, and allows the applicant to request a meeting with the local government.
- 8) Defines “concession or incentive” as:
- a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs;
 - b) Approval of mixed-use zoning in conjunction with the housing project, as specified; and
 - c) Other regulatory incentives or concessions proposed by the developer or the local government that results in identifiable and actual cost reductions to provide for affordable housing.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Density Bonus.** 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.

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) Ten percent of the total units for lower-income households;
- b) Five percent of the total units of a housing for very low-income households;
- c) A senior citizen housing development or mobilehome park;
- d) Ten percent of the units in a common-interest development for moderate-income households; or,
- e) Ten percent of the total units of a housing development for transitional foster youth, disabled veterans, or homeless persons.

As part of the density bonus application, a developer may also request incentives, concessions and parking ratio reductions. The number of incentives and concessions, and the parking ratio reduction, vary depending on the percentage and type of affordable housing included in a project.

- 2) **Bill Summary.** This bill creates a 35% density bonus for developers that seek and agree to construct a development project that will restrict 20% of the units to lower-income college students. All units in the student housing development must be used exclusively for undergraduate, graduate, or professional students enrolled full time at an accredited institution of higher education. Provisions in the bill require the developer to, as a condition of receiving a certificate of occupancy, provide evidence to the city or county that the developer has entered into an operating agreement or master lease with the institution or institutions. The bill also contains provisions that specify how the income of students must be verified and is sponsored by the Bay Area Council.
- 3) **Author's Statement.** According to the author, "SB 1227 increases the production of affordable student housing for our college students exclusively enrolled in a Western Association of Schools and Colleges accredited college or university. Existing law does not distinguish between student and non-student housing. These projects are subject to local control, require unnecessary costs that are normally meant for non-student housing, unaffordable to a typical struggling college student and therefore, contributes to California's already existing housing crisis."

- 4) **Arguments in Support.** Supporters argue that existing law does not distinguish between student and non-student housing, and student housing projects are often subjected to local government regulations intended for non-student housing.
- 5) **Arguments in Opposition.** Opponents argue that this bill ignores the State of California's responsibility to provide adequate on-campus housing for its students and creates additional on-street parking, traffic and greenhouse gas emissions for university host communities.
- 6) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on June 13, 2018, and passed on a 7-0 vote.

REGISTERED SUPPORT / OPPOSITION:**Support**

Bay Area Council [SPONSOR]
BRIDGE Housing
California YIMBY
California Building Industry Association
California Community Builders
Community College Districts of De Anza, Kern, Peralta, and San Diego
Half Moon Bay Brewing Co.
Inn at Mavericks
Kriss Worthington, Councilmember, City of Berkeley
Los Angeles Area Chamber of Commerce
Los Angeles County Economic Development Corporation
Mavericks Event Center
McKinsey & Company
North Bay Leadership Council
Pacific Standard
Postmates
San Francisco Chamber of Commerce
Saint Mary's College of California
San Mateo County Economic Development Association
The Two Hundred
TMG Partners
San Francisco Housing Action Coalition
SV Angel

Opposition

City of Camarillo

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