

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN ASSEMBLY MAY 3, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2508**

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**Introduced by Assembly Member Caballero**

February 19, 2010

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An act to amend Section 53545.13 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2508, as amended, Caballero. Housing: Infill Incentive Grant Program of 2007.

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of land suitable for residential development. Existing law sets forth various classifications and definitions for purposes of determining a city or county's inventory.

Existing law establishes the Infill Incentive Grant Program of 2007, administered by the Department of Housing and Community Development, a competitive grant program to facilitate the development of qualifying infill residential projects.

This bill would, ~~upon request by a local agency, allow that agency notwithstanding a specified provision of law, authorize a city meeting certain population criteria~~ to petition the department for an exception to the classification of its jurisdiction under a specified provision of the

Planning and Zoning Law, if that ~~agency~~ city believes it is unable to meet threshold density requirements for the Infill Incentive Grant Program of 2007. *The bill would authorize the department to grant the petition.* The bill would establish procedures for the exception request and make these provisions inoperative on January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 53545.13 of the Health and Safety Code
- 2 is amended to read:
- 3 53545.13. (a) The Infill Incentive Grant Program of 2007 is
- 4 hereby established to be administered by the department.
- 5 (b) Upon appropriation of funds by the Legislature for the
- 6 purpose of implementing paragraph (1) of subdivision (b) of
- 7 Section 53545, the department shall establish and administer a
- 8 competitive grant program to allocate those funds to selected
- 9 capital improvement projects that are an integral part of, or
- 10 necessary to facilitate the development of, a qualifying infill project
- 11 or a qualifying infill area.
- 12 (c) A qualifying infill project or qualifying infill area for which
- 13 a capital improvement project grant may be awarded shall meet
- 14 all of the following conditions:
- 15 (1) Be located in a city, county, or city and county, in which
- 16 the general plan of the city, county, or city and county, has an
- 17 adopted housing element that has been found by the department,
- 18 pursuant to Section 65585 of the Government Code, to be in
- 19 compliance with the requirements of Article 10.6 (commencing
- 20 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
- 21 Government Code.
- 22 (2) Include not less than 15 percent of affordable units, as
- 23 follows:
- 24 (A) For projects that contain both rental and ownership units,
- 25 units of either or both product types may be included in the
- 26 calculation of the affordability criteria.
- 27 (B) (i) To the extent included in a project grant application, for
- 28 the purpose of calculating the percentage of affordable units, the
- 29 department may consider the entire master development in which
- 30 the development seeking grant funding is included.

1 (ii) Where applicable, an applicant may include a replacement  
2 housing plan to ensure that dwelling units housing persons and  
3 families of low or moderate income are not removed from the low-  
4 and moderate-income housing market. Residential units to be  
5 replaced may not be counted toward meeting the affordability  
6 threshold required for eligibility for funding under this section.

7 (C) For the purposes of this subdivision, “affordable unit” means  
8 a unit that is made available at an affordable rent, as defined in  
9 Section 50053, to a household earning no more than 60 percent of  
10 the area median income or at an affordable housing cost, as defined  
11 in Section 50052.5, to a household earning no more than 120  
12 percent of the area median income. Rental units shall be subject  
13 to a recorded covenant that ensures affordability for at least 55  
14 years. Ownership units shall initially be sold to and occupied by  
15 a qualified household, and subject to a recorded covenant that  
16 includes either a resale restriction for at least 30 years or equity  
17 sharing upon resale.

18 (D) A qualifying infill project or qualifying infill area for which  
19 a disposition and development agreement or other project- or  
20 area-specific agreement between the developer and the local agency  
21 having jurisdiction over the project has been executed on or before  
22 the effective date of the act adding this section, shall be deemed  
23 to meet the affordability requirement of this paragraph (2) if the  
24 agreement includes affordability covenants that subject the project  
25 or area to the production of affordable units for very low, low-, or  
26 moderate-income households.

27 (3) Include average residential densities on the parcels to be  
28 developed that are equal to or greater than the densities described  
29 in subparagraph (B) of paragraph (3) of subdivision (c) of Section  
30 65583.2 of the Government Code, except that a project located in  
31 a rural area as defined in Section 50199.21 shall include average  
32 residential densities on the parcels to be developed of at least 10  
33 units per acre.

34 (4) Be located in an area designated for mixed-use or residential  
35 development pursuant to one of the following adopted plans:

36 (A) A general plan adopted pursuant to Section 65300 of the  
37 Government Code.

38 (B) A project area redevelopment plan approved pursuant to  
39 Section 33330.

1 (C) A regional blueprint plan as defined in the California  
2 Regional Blueprint Planning Program administered by the  
3 Business, Transportation and Housing Agency, or a regional plan  
4 as defined in Section 65060.7 of the Government Code.

5 (5) For qualifying infill projects or qualifying infill areas located  
6 in a redevelopment project area, meet the requirements contained  
7 in subdivision (a) of Section 33413.

8 (d) In its review and ranking of applications for the award of  
9 capital improvement project grants, the department shall rank the  
10 affected qualifying infill projects and qualifying infill areas based  
11 on the following priorities:

12 (1) Project readiness, which shall include all of the following:

13 (A) A demonstration that the project or area development can  
14 complete environmental review and secure necessary entitlements  
15 from the local jurisdiction within a reasonable period of time  
16 following the submittal of a grant application.

17 (B) A demonstration that the eligible applicant can secure  
18 sufficient funding commitments derived from sources other than  
19 this part for the timely development of a qualifying infill project  
20 or development of a qualifying infill area.

21 (C) A demonstration that the project or area development has  
22 sufficient local support to achieve the proposed improvement.

23 (2) The depth and duration of the affordability of the housing  
24 proposed for a qualifying infill project or qualifying infill area.

25 (3) The extent to which the average residential densities on the  
26 parcels to be developed exceed the density standards contained in  
27 paragraph (3) of subdivision (c).

28 (4) The qualifying infill project's or qualifying infill area's  
29 inclusion of, or proximity or accessibility to, a transit station or  
30 major transit stop.

31 (5) The proximity of housing to parks, employment or retail  
32 centers, schools, or social services.

33 (6) The qualifying infill project or qualifying infill area  
34 location's consistency with an adopted regional blueprint plan or  
35 other adopted regional growth plan intended to foster efficient land  
36 use.

37 (e) In allocating funds pursuant to this section, the department,  
38 to the maximum extent feasible, shall ensure a reasonable  
39 geographic distribution of funds.

1 (f) Funds awarded pursuant to this section shall supplement,  
2 not supplant, other available funding.

3 (g) (1) The department shall adopt guidelines for the operation  
4 of the grant program, including guidelines to ensure the tax-exempt  
5 status of the bonds issued pursuant to this part, and may administer  
6 the program under those guidelines.

7 (2) The guidelines shall include provisions for the reversion of  
8 grant awards that are not encumbered within four years of the fiscal  
9 year in which an award was made, and for the recapture of grants  
10 awarded, but for which development of the related housing units  
11 has not progressed in a reasonable period of time from the date of  
12 the grant award, as determined by the department.

13 (3) The guidelines shall not be subject to the requirements of  
14 Chapter 3.5 (commencing with Section 11340) of Division 3 of  
15 Title 2 of the Government Code.

16 (h) For each fiscal year within the duration of the grant program,  
17 the department shall include within the report to the Legislature,  
18 required by Section 50408, information on its activities relating  
19 to the grant program. The report shall include, but is not limited  
20 to, the following information:

21 (1) A summary of the projects that received grants under the  
22 program for each fiscal year that grants were awarded.

23 (2) The description, location, and estimated date of completion  
24 for each project that received a grant award under the program.

25 (3) An update on the status of each project that received a grant  
26 award under the program, and the number of housing units created  
27 or facilitated by the program.

28 ~~(i) A local agency may petition the department for an exception~~

29 *(i) Notwithstanding paragraph (3) of subdivision (c), a city of*  
30 *greater than 100,000 in population in a standard metropolitan*  
31 *statistical area of less than 200,000 in population may petition the*  
32 *department for, and the department may grant, an exception to*  
33 *the jurisdiction's classification pursuant to subdivisions (d) to (f),*  
34 *inclusive, of Section 65583.2 of the Government Code, if the*  
35 *agency city believes it is unable to meet the density requirements*  
36 *specified in paragraph (3) of subdivision (c). The local agency city*  
37 *shall submit the petition with its application and shall include the*  
38 *reasons why the agency city believes the exception is warranted.*  
39 *The local agency city shall provide information supporting the*  
40 *need for the exception, including, but not limited to, any limitations*

1 that the ~~local agency~~ *city* may encounter in meeting the density  
2 requirements specified in paragraph (3) of subdivision (c). Any  
3 exception shall be for the purposes of this section only. *This*  
4 *subdivision shall become inoperative on January 1, 2015.*

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