

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN SENATE JULY 8, 2015

AMENDED IN SENATE JUNE 23, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 744**

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**Introduced by Assembly Members Chau and Quirk  
(Principal coauthor: Assembly Member Gonzalez)  
(Coauthor: Senator Beall)**

February 25, 2015

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An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as amended, Chau. Planning and zoning: density bonuses.

The Planning and Zoning Law requires, when a developer of housing 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 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 prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.

This bill would, notwithstanding the above-described provisions, additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- or very low income units, as specified, and is located within  $\frac{1}{2}$  mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. The bill would also prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of specified amounts per unit on a development that consists solely of units with an affordable housing cost to lower income households, as specified, if the development is within  $\frac{1}{2}$  mile of a major transit stop and there is unobstructed access to the transit stop from the development, is a for-rent housing development for individuals that are 62 years of age or older that complies with specified existing laws regarding senior housing, or is a special needs housing development, as those terms are defined. The bill would require a subject development that is a for-rent housing development for individuals that are 62 years of age or older or a special needs housing development to have either paratransit service or ~~be located~~ *unobstructed access*, within  ~~$\frac{1}{2}$  mile of~~ *mile*, to fixed bus route service that operates at least 8 times per day. *The bill would authorize a city, county, or city and county to impose a higher vehicular parking ratio based on substantial evidence found in an areawide or jurisdictionwide parking study, as specified.* The bill would make findings and ~~declarations in this regard,~~ *declarations*, including that ~~this constitutes the subject of the bill is~~ a matter of statewide concern and ~~is not a municipal affair.~~

By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

reimbursement for those costs shall be made pursuant to these statutory provisions:

*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. The Legislature finds and declares all of the  
2 following:

3 (a) Having a healthy housing market that provides an adequate  
4 supply of homes that are affordable to Californians at all income  
5 levels is critical to the economic prosperity and quality of life in  
6 the state.

7 (b) There exists a severe shortage of affordable housing,  
8 especially for persons and families of extremely low, very low,  
9 and low income, and there is an immediate need to encourage the  
10 development of new housing, not only through the provision of  
11 financial assistance but also through reforms to regulation.

12 (c) Affordable housing is expensive to build in California.

13 (d) The cost of building affordable housing in California is  
14 impacted by local opposition, changes imposed by local design  
15 and review, and requirements for on-site parking.

16 (e) The average construction cost per space, excluding land  
17 cost, in a parking structure in the United States is about \$24,000  
18 for aboveground parking and \$34,000 for underground parking.  
19 In an affordable housing project with a fixed budget, every \$24,000  
20 spent on a required parking space is \$24,000 less to spend on  
21 housing.

22 (f) The biggest single determinant of vehicle miles traveled and  
23 therefore greenhouse gas emissions is ownership of a private  
24 vehicle.

25 (g) A review of developments funded through the Department  
26 of Housing and Community Development’s Transit-Oriented  
27 Development Implementation Program (TOD program) shows

1 that lower income households drive 25 to 30 percent fewer miles  
2 when living within one-half mile of transit than those living in  
3 non-TOD program areas. When living within one-quarter mile of  
4 frequent transit, they drove nearly 50 percent less.

5 (h) When cities require off-street parking with all new residential  
6 construction, they shift what should be the cost of driving, the cost  
7 of parking a car, into the cost of housing, which artificially  
8 increases the cost of housing.

9 (i) Increases in public transportation and shared mobility options  
10 and the development of more walkable and bikeable neighborhoods  
11 reduce the demand for parking.

12 (j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32)  
13 and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy  
14 to promote transit-oriented infill development to reduce greenhouse  
15 gas emissions.

16 (k) The high cost of the land and improvements required to  
17 provide parking significantly increases the cost of transit-oriented  
18 development, making lower cost and affordable housing  
19 development financially infeasible and hindering the goals of SB  
20 375.

21 (l) Eliminating minimum parking requirements will allow the  
22 limited funding available for affordable housing to support more  
23 housing for more Californians. A given housing subsidy fund can  
24 benefit about 6.5 times more households with no parking spaces  
25 than households with 2 spaces per unit.

26 (m) Minimum parking requirements provide large subsidies for  
27 parking, which in turn encourage more people to drive cars.

28 (n) Minimum parking requirements create a barrier to effective  
29 use of the density bonus law contained in Section 65915 of the  
30 Government Code. The parking required for the extra units adds  
31 construction and land costs that may be prohibitive and requires  
32 vacant land that may be unavailable, especially in locations near  
33 transit.

34 (o) Increasing the supply of affordable housing near transit helps  
35 achieve deeper affordability through reduced transportation costs,  
36 in addition to reduced housing costs.

37 (p) Governmental parking requirements for infill and  
38 transit-oriented development reduce the viability of transit by  
39 limiting the number of households or workers near transit,

1 increasing walking distances, and degrading the pedestrian  
2 environment.

3 (q) Reducing or eliminating minimum parking requirements for  
4 infill and transit-oriented development and allowing builders and  
5 the market to decide how much parking is needed can achieve all  
6 of the following:

7 (1) Ensure sufficient amounts of parking at almost all times.

8 (2) Reduce the cost of development and increase the number of  
9 transit-accessible and affordable housing units.

10 (3) Allow for more effective use of the density bonus law.

11 (4) Increase density in areas with the most housing demand,  
12 and improve the viability of developing alternate modes of  
13 transportation, such as public transit, ridesharing, biking, and  
14 walking.

15 (5) Reduce greenhouse gas emissions and vehicle miles traveled  
16 by removing an incentive to drive.

17 (r) It is the intent of the Legislature to reduce the cost of  
18 development by eliminating excessive minimum parking  
19 requirements for transit-oriented developments that includes  
20 affordable housing, senior housing, and special needs housing.

21 (s) The Legislature further declares that the need to address  
22 infill development and excessive parking requirements is a matter  
23 of statewide concern and is not a municipal affair as that term is  
24 used in Section 5 of Article XI of the California Constitution.  
25 Therefore, this act shall apply to all cities, including charter cities.

26 SEC. 2. Section 65915 of the Government Code is amended  
27 to read:

28 65915. (a) When an applicant seeks a density bonus for a  
29 housing development within, or for the donation of land for housing  
30 within, the jurisdiction of a city, county, or city and county, that  
31 local government shall provide the applicant with incentives or  
32 concessions for the production of housing units and child care  
33 facilities as prescribed in this section. All cities, counties, or cities  
34 and counties shall adopt an ordinance that specifies how  
35 compliance with this section will be implemented. Failure to adopt  
36 an ordinance shall not relieve a city, county, or city and county  
37 from complying with this section.

38 (b) (1) A city, county, or city and county shall grant one density  
39 bonus, the amount of which shall be as specified in subdivision  
40 (f), and incentives or concessions, as described in subdivision (d),

1 when an applicant for a housing development seeks and agrees to  
2 construct a housing development, excluding any units permitted  
3 by the density bonus awarded pursuant to this section, that will  
4 contain at least any one of the following:

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

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

11 (C) A senior citizen housing development, as defined in Sections  
12 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
13 residency based on age requirements for housing for older persons  
14 pursuant to Section 798.76 or 799.5 of the Civil Code.

15 (D) Ten percent of the total dwelling units in a common interest  
16 development, as defined in Section 4100 of the Civil Code, for  
17 persons and families of moderate income, as defined in Section  
18 50093 of the Health and Safety Code, provided that all units in the  
19 development are offered to the public for purchase.

20 (2) For purposes of calculating the amount of the density bonus  
21 pursuant to subdivision (f), an applicant who requests a density  
22 bonus pursuant to this subdivision shall elect whether the bonus  
23 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
24 of paragraph (1).

25 (3) For the purposes of this section, “total units” or “total  
26 dwelling units” does not include units added by a density bonus  
27 awarded pursuant to this section or any local law granting a greater  
28 density bonus.

29 (c) (1) An applicant shall agree to, and the city, county, or city  
30 and county shall ensure, the continued affordability of all very low  
31 and low-income rental units that qualified the applicant for the  
32 award of the density bonus for 55 years or a longer period of time  
33 if required by the construction or mortgage financing assistance  
34 program, mortgage insurance program, or rental subsidy program.  
35 Rents for the lower income density bonus units shall be set at an  
36 affordable rent as defined in Section 50053 of the Health and Safety  
37 Code.

38 (2) An applicant shall agree to, and the city, county, or city and  
39 county shall ensure that, the initial occupant of all for-sale units  
40 that qualified the applicant for the award of the density bonus are

1 persons and families of very low, low, or moderate income, as  
2 required, and that the units are offered at an affordable housing  
3 cost, as that cost is defined in Section 50052.5 of the Health and  
4 Safety Code. The local government shall enforce an equity sharing  
5 agreement, unless it is in conflict with the requirements of another  
6 public funding source or law. The following apply to the equity  
7 sharing agreement:

8 (A) Upon resale, the seller of the unit shall retain the value of  
9 any improvements, the downpayment, and the seller's proportionate  
10 share of appreciation. The local government shall recapture any  
11 initial subsidy, as defined in subparagraph (B), and its proportionate  
12 share of appreciation, as defined in subparagraph (C), which  
13 amount shall be used within five years for any of the purposes  
14 described in subdivision (e) of Section 33334.2 of the Health and  
15 Safety Code that promote home ownership.

16 (B) For purposes of this subdivision, the local government's  
17 initial subsidy shall be equal to the fair market value of the home  
18 at the time of initial sale minus the initial sale price to the  
19 moderate-income household, plus the amount of any downpayment  
20 assistance or mortgage assistance. If upon resale the market value  
21 is lower than the initial market value, then the value at the time of  
22 the resale shall be used as the initial market value.

23 (C) For purposes of this subdivision, the local government's  
24 proportionate share of appreciation shall be equal to the ratio of  
25 the local government's initial subsidy to the fair market value of  
26 the home at the time of initial sale.

27 (3) (A) An applicant shall be ineligible for a density bonus or  
28 any other incentives or concessions under this section if the housing  
29 development is proposed on any property that includes a parcel or  
30 parcels on which rental dwelling units are or, if the dwelling units  
31 have been vacated or demolished in the five-year period preceding  
32 the application, have been subject to a recorded covenant,  
33 ordinance, or law that restricts rents to levels affordable to persons  
34 and families of lower or very low income; subject to any other  
35 form of rent or price control through a public entity's valid exercise  
36 of its police power; or occupied by lower or very low income  
37 households, unless the proposed housing development replaces  
38 those units, and either of the following applies:

1 (i) The proposed housing development, inclusive of the units  
2 replaced pursuant to this paragraph, contains affordable units at  
3 the percentages set forth in subdivision (b).

4 (ii) Each unit in the development, exclusive of a manager’s unit  
5 or units, is affordable to, and occupied by, either a lower or very  
6 low income household.

7 (B) For the purposes of this paragraph, “replace” shall mean  
8 either of the following:

9 (i) If any dwelling units described in subparagraph (A) are  
10 occupied on the date of application, the proposed housing  
11 development shall provide at least the same number of units of  
12 equivalent size or type, or both, to be made available at affordable  
13 rent or affordable housing cost to, and occupied by, persons and  
14 families in the same or lower income category as those households  
15 in occupancy. For unoccupied dwelling units described in  
16 subparagraph (A) in a development with occupied units, the  
17 proposed housing development shall provide units of equivalent  
18 size or type, or both, to be made available at affordable rent or  
19 affordable housing cost to, and occupied by, persons and families  
20 in the same or lower income category in the same proportion of  
21 affordability as the occupied units. All replacement calculations  
22 resulting in fractional units shall be rounded up to the next whole  
23 number. If the replacement units will be rental dwelling units,  
24 these units shall be subject to a recorded affordability restriction  
25 for at least 55 years. If the proposed development is for-sale units,  
26 the units replaced shall be subject to paragraph (2).

27 (ii) If all dwelling units described in subparagraph (A) have  
28 been vacated or demolished within the five-year period preceding  
29 the application, the proposed housing development shall provide  
30 at least the same number of units of equivalent size or type, or  
31 both, as existed at the highpoint of those units in the five-year  
32 period preceding the application to be made available at affordable  
33 rent or affordable housing cost to, and occupied by, persons and  
34 families in the same or lower income category as those persons  
35 and families in occupancy at that time, if known. If the incomes  
36 of the persons and families in occupancy at the highpoint is not  
37 known, then one-half of the required units shall be made available  
38 at affordable rent or affordable housing cost to, and occupied by,  
39 very low income persons and families and one-half of the required  
40 units shall be made available for rent at affordable housing costs

1 to, and occupied by, low-income persons and families. All  
2 replacement calculations resulting in fractional units shall be  
3 rounded up to the next whole number. If the replacement units will  
4 be rental dwelling units, these units shall be subject to a recorded  
5 affordability restriction for at least 55 years. If the proposed  
6 development is for-sale units, the units replaced shall be subject  
7 to paragraph (2).

8 (C) Paragraph (3) of subdivision (c) does not apply to an  
9 applicant seeking a density bonus for a proposed housing  
10 development if his or her application was submitted to, or  
11 processed by, a city, county, or city and county before January 1,  
12 2015.

13 (d) (1) An applicant for a density bonus pursuant to subdivision  
14 (b) may submit to a city, county, or city and county a proposal for  
15 the specific incentives or concessions that the applicant requests  
16 pursuant to this section, and may request a meeting with the city,  
17 county, or city and county. The city, county, or city and county  
18 shall grant the concession or incentive requested by the applicant  
19 unless the city, county, or city and county makes a written finding,  
20 based upon substantial evidence, of any of the following:

21 (A) The concession or incentive is not required in order to  
22 provide for affordable housing costs, as defined in Section 50052.5  
23 of the Health and Safety Code, or for rents for the targeted units  
24 to be set as specified in subdivision (c).

25 (B) The concession or incentive would have a specific adverse  
26 impact, as defined in paragraph (2) of subdivision (d) of Section  
27 65589.5, upon public health and safety or the physical environment  
28 or on any real property that is listed in the California Register of  
29 Historical Resources and for which there is no feasible method to  
30 satisfactorily mitigate or avoid the specific adverse impact without  
31 rendering the development unaffordable to low- and  
32 moderate-income households.

33 (C) The concession or incentive would be contrary to state or  
34 federal law.

35 (2) The applicant shall receive the following number of  
36 incentives or concessions:

37 (A) One incentive or concession for projects that include at least  
38 10 percent of the total units for lower income households, at least  
39 5 percent for very low income households, or at least 10 percent

1 for persons and families of moderate income in a common interest  
2 development.

3 (B) Two incentives or concessions for projects that include at  
4 least 20 percent of the total units for lower income households, at  
5 least 10 percent for very low income households, or at least 20  
6 percent for persons and families of moderate income in a common  
7 interest development.

8 (C) Three incentives or concessions for projects that include at  
9 least 30 percent of the total units for lower income households, at  
10 least 15 percent for very low income households, or at least 30  
11 percent for persons and families of moderate income in a common  
12 interest development.

13 (3) The applicant may initiate judicial proceedings if the city,  
14 county, or city and county refuses to grant a requested density  
15 bonus, incentive, or concession. If a court finds that the refusal to  
16 grant a requested density bonus, incentive, or concession is in  
17 violation of this section, the court shall award the plaintiff  
18 reasonable attorney’s fees and costs of suit. Nothing in this  
19 subdivision shall be interpreted to require a local government to  
20 grant an incentive or concession that has a specific, adverse impact,  
21 as defined in paragraph (2) of subdivision (d) of Section 65589.5,  
22 upon health, safety, or the physical environment, and for which  
23 there is no feasible method to satisfactorily mitigate or avoid the  
24 specific adverse impact. Nothing in this subdivision shall be  
25 interpreted to require a local government to grant an incentive or  
26 concession that would have an adverse impact on any real property  
27 that is listed in the California Register of Historical Resources.  
28 The city, county, or city and county shall establish procedures for  
29 carrying out this section, that shall include legislative body  
30 approval of the means of compliance with this section.

31 (e) (1) In no case may a city, county, or city and county apply  
32 any development standard that will have the effect of physically  
33 precluding the construction of a development meeting the criteria  
34 of subdivision (b) at the densities or with the concessions or  
35 incentives permitted by this section. An applicant may submit to  
36 a city, county, or city and county a proposal for the waiver or  
37 reduction of development standards that will have the effect of  
38 physically precluding the construction of a development meeting  
39 the criteria of subdivision (b) at the densities or with the  
40 concessions or incentives permitted under this section, and may

1 request a meeting with the city, county, or city and county. If a  
 2 court finds that the refusal to grant a waiver or reduction of  
 3 development standards is in violation of this section, the court  
 4 shall award the plaintiff reasonable attorney’s fees and costs of  
 5 suit. Nothing in this subdivision shall be interpreted to require a  
 6 local government to waive or reduce development standards if the  
 7 waiver or reduction would have a specific, adverse impact, as  
 8 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
 9 upon health, safety, or the physical environment, and for which  
 10 there is no feasible method to satisfactorily mitigate or avoid the  
 11 specific adverse impact. Nothing in this subdivision shall be  
 12 interpreted to require a local government to waive or reduce  
 13 development standards that would have an adverse impact on any  
 14 real property that is listed in the California Register of Historical  
 15 Resources, or to grant any waiver or reduction that would be  
 16 contrary to state or federal law.

17 (2) A proposal for the waiver or reduction of development  
 18 standards pursuant to this subdivision shall neither reduce nor  
 19 increase the number of incentives or concessions to which the  
 20 applicant is entitled pursuant to subdivision (d).

21 (f) For the purposes of this chapter, “density bonus” means a  
 22 density increase over the otherwise maximum allowable residential  
 23 density as of the date of application by the applicant to the city,  
 24 county, or city and county. The applicant may elect to accept a  
 25 lesser percentage of density bonus. The amount of density bonus  
 26 to which the applicant is entitled shall vary according to the amount  
 27 by which the percentage of affordable housing units exceeds the  
 28 percentage established in subdivision (b).

29 (1) For housing developments meeting the criteria of  
 30 subparagraph (A) of paragraph (1) of subdivision (b), the density  
 31 bonus shall be calculated as follows:

32	Percentage Low-Income Units	Percentage Density
33		Bonus
34		
35	10	20
36	11	21.5
37	12	23
38	13	24.5
39	14	26
40	15	27.5

1	17	30.5
2	18	32
3	19	33.5
4	20	35

5  
6 (2) For housing developments meeting the criteria of  
7 subparagraph (B) of paragraph (1) of subdivision (b), the density  
8 bonus shall be calculated as follows:

9	Percentage Very Low Income Units	Percentage Density Bonus
10		
11	5	20
12	6	22.5
13	7	25
14	8	27.5
15	9	30
16	10	32.5
17	11	35

18  
19 (3) For housing developments meeting the criteria of  
20 subparagraph (C) of paragraph (1) of subdivision (b), the density  
21 bonus shall be 20 percent of the number of senior housing units.

22 (4) For housing developments meeting the criteria of  
23 subparagraph (D) of paragraph (1) of subdivision (b), the density  
24 bonus shall be calculated as follows:

25	Percentage Moderate-Income Units	Percentage Density Bonus
26		
27	10	5
28	11	6
29	12	7
30	13	8
31	14	9
32	15	10
33	16	11
34	17	12
35	18	13
36	19	14
37	20	15
38	21	16
39	22	17
40	23	18

1	24	19
2	25	20
3	26	21
4	27	22
5	28	23
6	29	24
7	30	25
8	31	26
9	32	27
10	33	28
11	34	29
12	35	30
13	36	31
14	37	32
15	38	33
16	39	34
17	40	35

18

19 (5) All density calculations resulting in fractional units shall be  
 20 rounded up to the next whole number. The granting of a density  
 21 bonus shall not be interpreted, in and of itself, to require a general  
 22 plan amendment, local coastal plan amendment, zoning change,  
 23 or other discretionary approval.

24 (g) (1) When an applicant for a tentative subdivision map,  
 25 parcel map, or other residential development approval donates  
 26 land to a city, county, or city and county in accordance with this  
 27 subdivision, the applicant shall be entitled to a 15-percent increase  
 28 above the otherwise maximum allowable residential density for  
 29 the entire development, as follows:

30

31	Percentage Very Low Income	Percentage Density Bonus
32	10	15
33	11	16
34	12	17
35	13	18
36	14	19
37	15	20
38	16	21
39	17	22
40	18	23

1	19	24
2	20	25
3	21	26
4	22	27
5	23	28
6	24	29
7	25	30
8	26	31
9	27	32
10	28	33
11	29	34
12	30	35
13		

14 (2) This increase shall be in addition to any increase in density  
15 mandated by subdivision (b), up to a maximum combined mandated  
16 density increase of 35 percent if an applicant seeks an increase  
17 pursuant to both this subdivision and subdivision (b). All density  
18 calculations resulting in fractional units shall be rounded up to the  
19 next whole number. Nothing in this subdivision shall be construed  
20 to enlarge or diminish the authority of a city, county, or city and  
21 county to require a developer to donate land as a condition of  
22 development. An applicant shall be eligible for the increased  
23 density bonus described in this subdivision if all of the following  
24 conditions are met:

25 (A) The applicant donates and transfers the land no later than  
26 the date of approval of the final subdivision map, parcel map, or  
27 residential development application.

28 (B) The developable acreage and zoning classification of the  
29 land being transferred are sufficient to permit construction of units  
30 affordable to very low income households in an amount not less  
31 than 10 percent of the number of residential units of the proposed  
32 development.

33 (C) The transferred land is at least one acre in size or of  
34 sufficient size to permit development of at least 40 units, has the  
35 appropriate general plan designation, is appropriately zoned with  
36 appropriate development standards for development at the density  
37 described in paragraph (3) of subdivision (c) of Section 65583.2,  
38 and is or will be served by adequate public facilities and  
39 infrastructure.

1 (D) The transferred land shall have all of the permits and  
2 approvals, other than building permits, necessary for the  
3 development of the very low income housing units on the  
4 transferred land, not later than the date of approval of the final  
5 subdivision map, parcel map, or residential development  
6 application, except that the local government may subject the  
7 proposed development to subsequent design review to the extent  
8 authorized by subdivision (i) of Section 65583.2 if the design is  
9 not reviewed by the local government prior to the time of transfer.

10 (E) The transferred land and the affordable units shall be subject  
11 to a deed restriction ensuring continued affordability of the units  
12 consistent with paragraphs (1) and (2) of subdivision (c), which  
13 shall be recorded on the property at the time of the transfer.

14 (F) The land is transferred to the local agency or to a housing  
15 developer approved by the local agency. The local agency may  
16 require the applicant to identify and transfer the land to the  
17 developer.

18 (G) The transferred land shall be within the boundary of the  
19 proposed development or, if the local agency agrees, within  
20 one-quarter mile of the boundary of the proposed development.

21 (H) A proposed source of funding for the very low income units  
22 shall be identified not later than the date of approval of the final  
23 subdivision map, parcel map, or residential development  
24 application.

25 (h) (1) When an applicant proposes to construct a housing  
26 development that conforms to the requirements of subdivision (b)  
27 and includes a child care facility that will be located on the  
28 premises of, as part of, or adjacent to, the project, the city, county,  
29 or city and county shall grant either of the following:

30 (A) An additional density bonus that is an amount of square  
31 feet of residential space that is equal to or greater than the amount  
32 of square feet in the child care facility.

33 (B) An additional concession or incentive that contributes  
34 significantly to the economic feasibility of the construction of the  
35 child care facility.

36 (2) The city, county, or city and county shall require, as a  
37 condition of approving the housing development, that the following  
38 occur:

39 (A) The child care facility shall remain in operation for a period  
40 of time that is as long as or longer than the period of time during

1 which the density bonus units are required to remain affordable  
2 pursuant to subdivision (c).

3 (B) Of the children who attend the child care facility, the  
4 children of very low income households, lower income households,  
5 or families of moderate income shall equal a percentage that is  
6 equal to or greater than the percentage of dwelling units that are  
7 required for very low income households, lower income  
8 households, or families of moderate income pursuant to subdivision  
9 (b).

10 (3) Notwithstanding any requirement of this subdivision, a city,  
11 county, or city and county shall not be required to provide a density  
12 bonus or concession for a child care facility if it finds, based upon  
13 substantial evidence, that the community has adequate child care  
14 facilities.

15 (4) “Child care facility,” as used in this section, means a child  
16 day care facility other than a family day care home, including, but  
17 not limited to, infant centers, preschools, extended day care  
18 facilities, and schoolage child care centers.

19 (i) “Housing development,” as used in this section, means a  
20 development project for five or more residential units. For the  
21 purposes of this section, “housing development” also includes a  
22 subdivision or common interest development, as defined in Section  
23 4100 of the Civil Code, approved by a city, county, or city and  
24 county and consists of residential units or unimproved residential  
25 lots and either a project to substantially rehabilitate and convert  
26 an existing commercial building to residential use or the substantial  
27 rehabilitation of an existing multifamily dwelling, as defined in  
28 subdivision (d) of Section 65863.4, where the result of the  
29 rehabilitation would be a net increase in available residential units.  
30 For the purpose of calculating a density bonus, the residential units  
31 shall be on contiguous sites that are the subject of one development  
32 application, but do not have to be based upon individual  
33 subdivision maps or parcels. The density bonus shall be permitted  
34 in geographic areas of the housing development other than the  
35 areas where the units for the lower income households are located.

36 (j) (1) The granting of a concession or incentive shall not be  
37 interpreted, in and of itself, to require a general plan amendment,  
38 local coastal plan amendment, zoning change, or other discretionary  
39 approval. This provision is declaratory of existing law.

1 (2) Except as provided in subdivisions (d) and (e), the granting  
2 of a density bonus shall not be interpreted to require the waiver of  
3 a local ordinance or provisions of a local ordinance unrelated to  
4 development standards.

5 (k) For the purposes of this chapter, concession or incentive  
6 means any of the following:

7 (1) A reduction in site development standards or a modification  
8 of zoning code requirements or architectural design requirements  
9 that exceed the minimum building standards approved by the  
10 California Building Standards Commission as provided in Part 2.5  
11 (commencing with Section 18901) of Division 13 of the Health  
12 and Safety Code, including, but not limited to, a reduction in  
13 setback and square footage requirements and in the ratio of  
14 vehicular parking spaces that would otherwise be required that  
15 results in identifiable, financially sufficient, and actual cost  
16 reductions.

17 (2) Approval of mixed-use zoning in conjunction with the  
18 housing project if commercial, office, industrial, or other land uses  
19 will reduce the cost of the housing development and if the  
20 commercial, office, industrial, or other land uses are compatible  
21 with the housing project and the existing or planned development  
22 in the area where the proposed housing project will be located.

23 (3) Other regulatory incentives or concessions proposed by the  
24 developer or the city, county, or city and county that result in  
25 identifiable, financially sufficient, and actual cost reductions.

26 (l) Subdivision (k) does not limit or require the provision of  
27 direct financial incentives for the housing development, including  
28 the provision of publicly owned land, by the city, county, or city  
29 and county, or the waiver of fees or dedication requirements.

30 (m) This section does not supersede or in any way alter or lessen  
31 the effect or application of the California Coastal Act of 1976  
32 (Division 20 (commencing with Section 30000) of the Public  
33 Resources Code).

34 (n) If permitted by local ordinance, nothing in this section shall  
35 be construed to prohibit a city, county, or city and county from  
36 granting a density bonus greater than what is described in this  
37 section for a development that meets the requirements of this  
38 section or from granting a proportionately lower density bonus  
39 than what is required by this section for developments that do not  
40 meet the requirements of this section.

1 (o) For purposes of this section, the following definitions shall  
 2 apply:

3 (1) “Development standard” includes a site or construction  
 4 condition, including, but not limited to, a height limitation, a  
 5 setback requirement, a floor area ratio, an onsite open-space  
 6 requirement, or a parking ratio that applies to a residential  
 7 development pursuant to any ordinance, general plan element,  
 8 specific plan, charter, or other local condition, law, policy,  
 9 resolution, or regulation.

10 (2) “Maximum allowable residential density” means the density  
 11 allowed under the zoning ordinance and land use element of the  
 12 general plan, or if a range of density is permitted, means the  
 13 maximum allowable density for the specific zoning range and land  
 14 use element of the general plan applicable to the project. Where  
 15 the density allowed under the zoning ordinance is inconsistent  
 16 with the density allowed under the land use element of the general  
 17 plan, the general plan density shall prevail.

18 (p) (1) Except as provided in paragraphs (2) and (3), upon the  
 19 request of the developer, a city, county, or city and county shall  
 20 not require a vehicular parking ratio, inclusive of handicapped and  
 21 guest parking, of a development meeting the criteria of subdivisions  
 22 (b) and (c), that exceeds the following ratios:

23 (A) Zero to one bedroom: one onsite parking space.

24 (B) Two to three bedrooms: two onsite parking spaces.

25 (C) Four and more bedrooms: two and one-half parking spaces.

26 (2) Notwithstanding paragraph (1), if a development includes  
 27 the maximum percentage of low- or very low income units  
 28 provided for in paragraphs (1) and (2) of subdivision (f) and is  
 29 located within one-half mile of a major transit stop, as defined in  
 30 subdivision (b) of Section 21155 of the Public Resources Code,  
 31 and there is unobstructed access to the major transit stop from the  
 32 development, then, upon the request of the developer, a city,  
 33 county, or city and county shall not impose a vehicular parking  
 34 ratio, inclusive of handicapped and guest parking, that exceeds 0.5  
 35 spaces per bedroom. *For purposes of this subdivision, a*  
 36 *development shall have unobstructed access to a major transit*  
 37 *stop if a resident is able to access the major transit stop without*  
 38 *encountering natural or constructed impediments.*

39 (3) Notwithstanding paragraph (1), if a development consists  
 40 solely of rental units, exclusive of a manager’s unit or units, with

1 an affordable housing cost to lower income families, as provided  
2 in Section 50052.5 of the Health and Safety Code, then, upon the  
3 request of the developer, a city, county, or city and county shall  
4 not impose a vehicular parking ratio, inclusive of handicapped and  
5 guest parking, that exceeds the following ratios:

6 (A) If the development is located within one-half mile of a major  
7 transit stop, as defined in subdivision (b) of Section 21155 of the  
8 Public Resources Code, and there is unobstructed access to the  
9 major transit stop from the development, the ratio shall not exceed  
10 0.5 spaces per unit. ~~For purposes of this paragraph, a development~~  
11 ~~shall have unobstructed access to the major transit stop if a resident~~  
12 ~~is able to access the major transit stop without encountering natural~~  
13 ~~or constructed impediments.~~

14 (B) If the development is a for-rent housing development for  
15 individuals who are 62 years of age or older that complies with  
16 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed  
17 0.5 spaces per unit. The development shall have either paratransit  
18 service ~~or be located~~ *unobstructed access*, within one-half ~~mile of~~  
19 *mile, to* fixed bus route service that operates at least eight times  
20 per day.

21 (C) If the development is a special needs housing development,  
22 as defined in Section 51312 of the Health and Safety Code, the  
23 ratio shall not exceed 0.3 spaces per unit. The development shall  
24 have either paratransit service ~~or be located~~ *unobstructed access*,  
25 within one-half ~~mile of~~ *mile, to* fixed bus route service that operates  
26 at least eight times per day.

27 (4) If the total number of parking spaces required for a  
28 development is other than a whole number, the number shall be  
29 rounded up to the next whole number. For purposes of this  
30 subdivision, a development may provide on-site parking through  
31 tandem parking or uncovered parking, but not through on-street  
32 parking.

33 (5) This subdivision shall apply to a development that meets  
34 the requirements of subdivisions (b) and (c), but only at the request  
35 of the applicant. An applicant may request parking incentives or  
36 concessions beyond those provided in this subdivision pursuant  
37 to subdivision (d).

38 (6) This subdivision does not preclude a city, county, or city  
39 and county from reducing or eliminating a parking requirement  
40 for development projects of any type in any location.

1 (7) Notwithstanding paragraphs (2) and (3), if a city, ~~county or~~  
 2 ~~county~~, city and ~~county~~ county, or an independent consultant has  
 3 conducted an ~~area-wide or jurisdiction-wide~~ *areawide or*  
 4 *jurisdictionwide* parking study in the last seven years, then the  
 5 city, county, or city and county may impose a higher vehicular  
 6 parking ratio not to exceed the ratio described in paragraph (1),  
 7 based upon substantial evidence found in the parking ~~study~~  
 8 ~~conducted by an independent consultant,~~ *study*, that includes, but  
 9 is not limited to, an analysis of parking availability, differing levels  
 10 of transit access, walkability access to transit services, the potential  
 11 for shared parking, ~~and the effect of parking requirements on the~~  
 12 ~~cost of market-rate and subsidized developments.~~ *developments,*  
 13 *and the lower rates of car ownership for low- and very low income*  
 14 *individuals, including seniors and special needs individuals. The*  
 15 *city, county, or city and county shall pay the costs of any new study.*  
 16 The city, county, or city and county shall make ~~findings~~ *findings*,  
 17 *based on a parking study completed in conformity with this*  
 18 *paragraph*, supporting the need for the higher parking ratio.

19 ~~SEC. 3.— If the Commission on State Mandates determines that~~  
 20 ~~this act contains costs mandated by the state, reimbursement to~~  
 21 ~~local agencies and school districts for those costs shall be made~~  
 22 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
 23 ~~4 of Title 2 of the Government Code.~~

24 *SEC. 3. No reimbursement is required by this act pursuant to*  
 25 *Section 6 of Article XIII B of the California Constitution because*  
 26 *a local agency or school district has the authority to levy service*  
 27 *charges, fees, or assessments sufficient to pay for the program or*  
 28 *level of service mandated by this act, within the meaning of Section*  
 29 *17556 of the Government Code.*