

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2501**

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**Introduced by Assembly Members Bloom and Low  
(Coauthor: Assembly Member Daly)**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Bloom. Housing: density bonuses.

Existing law, the Planning and Zoning Law, requires, when an applicant 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 for 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 requires a city, county, or city and county to adopt an ordinance to implement these requirements and to establish procedures to carry them out.

This bill would require the ~~ordinance to include~~ *local government to adopt* procedures and timelines for processing a density bonus application, ~~as specified, as well as~~ *provide* a list of documents and

information required to be submitted with the application in order for it to be deemed ~~complete~~. *complete, and notify the applicant whether it is complete.* By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would prohibit a local government from requiring additional reports or studies to be prepared by the developer as a condition of the application. The bill would additionally require each component of any density calculation that results in fractional units to be rounded up to the next whole number, and would provide that this provision is declaratory of existing law.

Existing law defines the term “density bonus” for these purposes to mean a density increase over the otherwise maximum allowable residential density as of the date of the application and provides that the applicant may elect to accept a lesser percentage of density bonus.

This bill would specify that the term “density bonus” means a density increase over the maximum allowable gross residential density at the time of the date of the application, and would provide that an applicant may elect to accept no density bonus. The bill would additionally provide that the term “density bonus” includes any incentive or concession, or waiver or reduction of development standard, provided to the applicant for the production of housing units and child care facilities, as provided.

Existing law requires a local government to provide the applicant for a density bonus with incentives or concessions for the production of housing units and child care facilities, as specified.

The bill would additionally require the local government to provide the applicant with a waiver or reduction of development standards, as specified.

Existing law requires a local government to grant a proposal for specific incentives or concessions requested by an applicant unless the local government makes written findings, based on substantial evidence, that, among other things, the concession or incentive is not required in order to provide affordable housing costs or for rents for the targeted units, as specified.

This bill would, instead, provide that the local government is required to provide the requested concessions or incentives unless it finds, based on substantial evidence, that the concession or incentive does not reduce the cost of development to provide for affordable housing costs or rents for the targeted units.

Existing law defines the term “housing development” for these purposes to mean a development project for five or more residential units.

This bill would expand that definition to include mixed-use housing, as specified.

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

3 65915. (a) (1) When an applicant seeks a density bonus for  
4 a housing development within, or for the donation of land for  
5 housing within, the jurisdiction of a city, county, or city and county,  
6 that local government shall provide the applicant with incentives,  
7 concessions, or waiver and reduction of development standards  
8 for the production of housing units and child care facilities as  
9 prescribed in this section. A city, county, or city and county shall  
10 adopt an ordinance that specifies how compliance with this section  
11 will be implemented. Failure to adopt an ordinance shall not relieve  
12 a city, county, or city and county from complying with this section.  
13 ~~The local government shall not require public notice or hold a~~  
14 ~~public hearing on the application. Acting on the application shall~~  
15 ~~be considered a ministerial act.~~

16 (2) A local government shall not condition the submission,  
17 review, or approval of an application for a density bonus pursuant  
18 to this chapter on the preparation of an additional report or study  
19 that is not otherwise described in this section.

20 (3) In order to provide for the expeditious processing of a density  
21 bonus application, ~~the ordinance required pursuant to this~~  
22 ~~subdivision~~ local government shall include do all of the following:

23 (A) ~~Procedures~~ Adopt procedures and timelines for processing  
24 a density bonus application.

1 (B) ~~A~~ Provide a list of all documents and information required  
 2 to be submitted with the density bonus application in order for the  
 3 density bonus application to be deemed complete. This list shall  
 4 be consistent with this chapter.

5 (C) ~~A procedure to notify~~ Notify the applicant within 30 days  
 6 of receipt of the application that for a density bonus whether the  
 7 application is complete or that an additional item is required to  
 8 complete the application. If an additional item is required, it shall  
 9 be identified in this notice. If the local government does not provide  
 10 this notice within 30 days, then the application shall be deemed  
 11 complete. *complete in a manner consistent with Section 65943.*

12 (D) ~~A procedure to make a final determination on the density~~  
 13 ~~bonus application no later than 60 days from the date when the~~  
 14 ~~density bonus application is deemed complete. If the local~~  
 15 ~~government does not make a final determination within this time,~~  
 16 ~~the density bonus application shall be deemed approved.~~

17 (b) (1) A city, county, or city and county shall grant one density  
 18 bonus, the amount of which shall be as specified in subdivision  
 19 (f), and incentives or concessions, as described in subdivision (d),  
 20 when an applicant for a housing development seeks and agrees to  
 21 construct a housing development, excluding any units permitted  
 22 by the density bonus awarded pursuant to this section, that will  
 23 contain at least any one of the following:

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

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

30 (C) A senior citizen housing development, as defined in Sections  
 31 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
 32 residency based on age requirements for housing for older persons  
 33 pursuant to Section 798.76 or 799.5 of the Civil Code.

34 (D) Ten percent of the total dwelling units in a common interest  
 35 development, as defined in Section 4100 of the Civil Code, for  
 36 persons and families of moderate income, as defined in Section  
 37 50093 of the Health and Safety Code, provided that all units in the  
 38 development are offered to the public for purchase.

39 (2) For purposes of calculating the amount of the density bonus  
 40 pursuant to subdivision (f), an applicant who requests a density

1 bonus pursuant to this subdivision shall elect whether the bonus  
2 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
3 of paragraph (1).

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

8 (c) (1) An applicant shall agree to, and the city, county, or city  
9 and county shall ensure, the continued affordability of all very low  
10 and low-income rental units that qualified the applicant for the  
11 award of the density bonus for 55 years or a longer period of time  
12 if required by the construction or mortgage financing assistance  
13 program, mortgage insurance program, or rental subsidy program.  
14 Rents for the lower income density bonus units shall be set at an  
15 affordable rent as defined in Section 50053 of the Health and Safety  
16 Code.

17 (2) An applicant shall agree to, and the city, county, or city and  
18 county shall ensure that, the initial occupant of all for-sale units  
19 that qualified the applicant for the award of the density bonus are  
20 persons and families of very low, low, or moderate income, as  
21 required, and that the units are offered at an affordable housing  
22 cost, as that cost is defined in Section 50052.5 of the Health and  
23 Safety Code. The local government shall enforce an equity sharing  
24 agreement, unless it is in conflict with the requirements of another  
25 public funding source or law. The following apply to the equity  
26 sharing agreement:

27 (A) Upon resale, the seller of the unit shall retain the value of  
28 any improvements, the downpayment, and the seller’s proportionate  
29 share of appreciation. The local government shall recapture any  
30 initial subsidy, as defined in subparagraph (B), and its proportionate  
31 share of appreciation, as defined in subparagraph (C), which  
32 amount shall be used within five years for any of the purposes  
33 described in subdivision (e) of Section 33334.2 of the Health and  
34 Safety Code that promote home ownership.

35 (B) For purposes of this subdivision, the local government’s  
36 initial subsidy shall be equal to the fair market value of the home  
37 at the time of initial sale minus the initial sale price to the  
38 moderate-income household, plus the amount of any downpayment  
39 assistance or mortgage assistance. If upon resale the market value

1 is lower than the initial market value, then the value at the time of  
2 the resale shall be used as the initial market value.

3 (C) For purposes of this subdivision, the local government’s  
4 proportionate share of appreciation shall be equal to the ratio of  
5 the local government’s initial subsidy to the fair market value of  
6 the home at the time of initial sale.

7 (3) (A) An applicant shall be ineligible for a density bonus or  
8 any other incentives or concessions under this section if the housing  
9 development is proposed on any property that includes a parcel or  
10 parcels on which rental dwelling units are or, if the dwelling units  
11 have been vacated or demolished in the five-year period preceding  
12 the application, have been subject to a recorded covenant,  
13 ordinance, or law that restricts rents to levels affordable to persons  
14 and families of lower or very low income; subject to any other  
15 form of rent or price control through a public entity’s valid exercise  
16 of its police power; or occupied by lower or very low income  
17 households, unless the proposed housing development replaces  
18 those units, and either of the following applies:

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

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

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

27 (i) If any dwelling units described in subparagraph (A) are  
28 occupied on the date of application, the proposed housing  
29 development shall provide at least the same number of units of  
30 equivalent size or type, or both, to be made available at affordable  
31 rent or affordable housing cost to, and occupied by, persons and  
32 families in the same or lower income category as those households  
33 in occupancy. For unoccupied dwelling units described in  
34 subparagraph (A) in a development with occupied units, the  
35 proposed housing development shall provide units of equivalent  
36 size or type, or both, to be made available at affordable rent or  
37 affordable housing cost to, and occupied by, persons and families  
38 in the same or lower income category in the same proportion of  
39 affordability as the occupied units. All replacement calculations  
40 resulting in fractional units shall be rounded up to the next whole

1 number. If the replacement units will be rental dwelling units,  
2 these units shall be subject to a recorded affordability restriction  
3 for at least 55 years. If the proposed development is for-sale units,  
4 the units replaced shall be subject to paragraph (2).

5 (ii) If all dwelling units described in subparagraph (A) have  
6 been vacated or demolished within the five-year period preceding  
7 the application, the proposed housing development shall provide  
8 at least the same number of units of equivalent size or type, or  
9 both, as existed at the highpoint of those units in the five-year  
10 period preceding the application to be made available at affordable  
11 rent or affordable housing cost to, and occupied by, persons and  
12 families in the same or lower income category as those persons  
13 and families in occupancy at that time, if known. If the incomes  
14 of the persons and families in occupancy at the highpoint is not  
15 known, then one-half of the required units shall be made available  
16 at affordable rent or affordable housing cost to, and occupied by,  
17 very low income persons and families and one-half of the required  
18 units shall be made available for rent at affordable housing costs  
19 to, and occupied by, low-income persons and families. All  
20 replacement calculations resulting in fractional units shall be  
21 rounded up to the next whole number. If the replacement units will  
22 be rental dwelling units, these units shall be subject to a recorded  
23 affordability restriction for at least 55 years. If the proposed  
24 development is for-sale units, the units replaced shall be subject  
25 to paragraph (2).

26 (C) Paragraph (3) of subdivision (c) does not apply to an  
27 applicant seeking a density bonus for a proposed housing  
28 development if his or her application was submitted to, or  
29 processed by, a city, county, or city and county before January 1,  
30 2015.

31 (d) (1) An applicant for a density bonus pursuant to subdivision  
32 (b) may submit to a city, county, or city and county a proposal for  
33 the specific incentives or concessions that the applicant requests  
34 pursuant to this section, and may request a meeting with the city,  
35 county, or city and county. The city, county, or city and county  
36 shall grant the concession or incentive requested by the applicant  
37 unless the city, county, or city and county makes a written finding,  
38 based upon substantial evidence, of any of the following:

39 (A) The concession or incentive does not reduce the cost of  
40 development to provide for affordable housing costs, as defined

1 in Section 50052.5 of the Health and Safety Code, or for rents for  
2 the targeted units to be set as specified in subdivision (c).

3 (B) The concession or incentive would have a specific adverse  
4 impact, as defined in paragraph (2) of subdivision (d) of Section  
5 65589.5, upon public health and safety or the physical environment  
6 or on any real property that is listed in the California Register of  
7 Historical Resources and for which there is no feasible method to  
8 satisfactorily mitigate or avoid the specific adverse impact without  
9 rendering the development unaffordable to low- and  
10 moderate-income households.

11 (C) The concession or incentive would be contrary to state or  
12 federal law.

13 (2) The applicant shall receive the following number of  
14 incentives or concessions:

15 (A) One incentive or concession for projects that include at least  
16 10 percent of the total units for lower income households, at least  
17 5 percent for very low income households, or at least 10 percent  
18 for persons and families of moderate income in a common interest  
19 development.

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

25 (C) Three incentives or concessions for projects that include at  
26 least 30 percent of the total units for lower income households, at  
27 least 15 percent for very low income households, or at least 30  
28 percent for persons and families of moderate income in a common  
29 interest development.

30 (3) The applicant may initiate judicial proceedings if the city,  
31 county, or city and county refuses to grant a requested density  
32 bonus, incentive, or concession. If a court finds that the refusal to  
33 grant a requested density bonus, incentive, or concession is in  
34 violation of this section, the court shall award the plaintiff  
35 reasonable attorney's fees and costs of suit. Nothing in this  
36 subdivision shall be interpreted to require a local government to  
37 grant an incentive or concession that has a specific, adverse impact,  
38 as defined in paragraph (2) of subdivision (d) of Section 65589.5,  
39 upon health, safety, or the physical environment, and for which  
40 there is no feasible method to satisfactorily mitigate or avoid the

1 specific adverse impact. Nothing in this subdivision shall be  
2 interpreted to require a local government to grant an incentive or  
3 concession that would have an adverse impact on any real property  
4 that is listed in the California Register of Historical Resources.  
5 The city, county, or city and county shall establish procedures for  
6 carrying out this section, that shall include legislative body  
7 approval of the means of compliance with this section.

8 (4) The city, county, or city and county shall bear the burden  
9 of proof for the denial of a requested concession or incentive.  
10 Denial of a requested concession or incentive shall be deemed to  
11 have exhausted an applicant's administrative remedies for purposes  
12 of paragraph (3) of subdivision (d) or subdivision (e).

13 (e) (1) In no case may a city, county, or city and county apply  
14 any development standard that will have the effect of physically  
15 precluding the construction of a development meeting the criteria  
16 of subdivision (b) at the densities or with the concessions or  
17 incentives permitted by this section. An applicant may submit to  
18 a city, county, or city and county a proposal for the waiver or  
19 reduction of development standards that will have the effect of  
20 physically precluding the construction of a development meeting  
21 the criteria of subdivision (b) at the densities or with the  
22 concessions or incentives permitted under this section, and may  
23 request a meeting with the city, county, or city and county. If a  
24 court finds that the refusal to grant a waiver or reduction of  
25 development standards is in violation of this section, the court  
26 shall award the plaintiff reasonable attorney's fees and costs of  
27 suit. Nothing in this subdivision shall be interpreted to require a  
28 local government to waive or reduce development standards if the  
29 waiver or reduction would have a specific, adverse impact, as  
30 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
31 upon health, safety, or the physical environment, and for which  
32 there is no feasible method to satisfactorily mitigate or avoid the  
33 specific adverse impact. Nothing in this subdivision shall be  
34 interpreted to require a local government to waive or reduce  
35 development standards that would have an adverse impact on any  
36 real property that is listed in the California Register of Historical  
37 Resources, or to grant any waiver or reduction that would be  
38 contrary to state or federal law.

39 (2) A proposal for the waiver or reduction of development  
40 standards pursuant to this subdivision shall neither reduce nor

1 increase the number of incentives or concessions to which the  
2 applicant is entitled pursuant to subdivision (d).

3 (f) (1) For the purposes of this chapter, “density bonus” means  
4 a density increase over the otherwise maximum allowable gross  
5 residential density as of the date of application by the applicant to  
6 the city, county, or city and county. The applicant may elect to  
7 accept a lesser percentage of density bonus, including, but not  
8 limited to, no increase in density. The amount of density bonus to  
9 which the applicant is entitled shall vary according to the amount  
10 by which the percentage of affordable housing units exceeds the  
11 percentage established in subdivision (b).

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

	Percentage Low-Income Units	Percentage Density Bonus
15		
16		
17		
18	10	20
19	11	21.5
20	12	23
21	13	24.5
22	14	26
23	15	27.5
24	17	30.5
25	18	32
26	19	33.5
27	20	35

28  
29 (B) For housing developments meeting the criteria of  
30 subparagraph (B) of paragraph (1) of subdivision (b), the density  
31 bonus shall be calculated as follows:

	Percentage Very Low Income Units	Percentage Density Bonus
32		
33		
34	5	20
35	6	22.5
36	7	25
37	8	27.5
38	9	30
39	10	32.5
40	11	35

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

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

7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	
	Percentage Moderate-Income Units			Percentage Density Bonus																														
		10		5																														
		11		6																														
		12		7																														
		13		8																														
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1 (E) All density calculations resulting in fractional units shall be  
 2 rounded up to the next whole number. The granting of a density  
 3 bonus shall not require, or be interpreted, in and of itself, to require  
 4 a general plan amendment, local coastal plan amendment, zoning  
 5 change, or other discretionary approval.

6 (2) The term “density bonus” shall also include any incentive  
 7 or concession, or waiver or reduction of development standard,  
 8 provided to the applicant for the production of housing units and  
 9 child care facilities, as provided in this section.

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

16	17 Percentage Very Low Income	17 Percentage Density Bonus
18	10	15
19	11	16
20	12	17
21	13	18
22	14	19
23	15	20
24	16	21
25	17	22
26	18	23
27	19	24
28	20	25
29	21	26
30	22	27
31	23	28
32	24	29
33	25	30
34	26	31
35	27	32
36	28	33
37	29	34
38	30	35
39		

1 (2) This increase shall be in addition to any increase in density  
2 mandated by subdivision (b), up to a maximum combined mandated  
3 density increase of 35 percent if an applicant seeks an increase  
4 pursuant to both this subdivision and subdivision (b). All density  
5 calculations resulting in fractional units shall be rounded up to the  
6 next whole number. Nothing in this subdivision shall be construed  
7 to enlarge or diminish the authority of a city, county, or city and  
8 county to require a developer to donate land as a condition of  
9 development. An applicant shall be eligible for the increased  
10 density bonus described in this subdivision if all of the following  
11 conditions are met:

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

15 (B) The developable acreage and zoning classification of the  
16 land being transferred are sufficient to permit construction of units  
17 affordable to very low income households in an amount not less  
18 than 10 percent of the number of residential units of the proposed  
19 development.

20 (C) The transferred land is at least one acre in size or of  
21 sufficient size to permit development of at least 40 units, has the  
22 appropriate general plan designation, is appropriately zoned with  
23 appropriate development standards for development at the density  
24 described in paragraph (3) of subdivision (c) of Section 65583.2,  
25 and is or will be served by adequate public facilities and  
26 infrastructure.

27 (D) The transferred land shall have all of the permits and  
28 approvals, other than building permits, necessary for the  
29 development of the very low income housing units on the  
30 transferred land, not later than the date of approval of the final  
31 subdivision map, parcel map, or residential development  
32 application, except that the local government may subject the  
33 proposed development to subsequent design review to the extent  
34 authorized by subdivision (i) of Section 65583.2 if the design is  
35 not reviewed by the local government prior to the time of transfer.

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

1 (F) The land is transferred to the local agency or to a housing  
2 developer approved by the local agency. The local agency may  
3 require the applicant to identify and transfer the land to the  
4 developer.

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

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

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

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

20 (B) An additional concession or incentive that contributes  
21 significantly to the economic feasibility of the construction of the  
22 child care facility.

23 (2) The city, county, or city and county shall require, as a  
24 condition of approving the housing development, that the following  
25 occur:

26 (A) The child care facility shall remain in operation for a period  
27 of time that is as long as or longer than the period of time during  
28 which the density bonus units are required to remain affordable  
29 pursuant to subdivision (c).

30 (B) Of the children who attend the child care facility, the  
31 children of very low income households, lower income households,  
32 or families of moderate income shall equal a percentage that is  
33 equal to or greater than the percentage of dwelling units that are  
34 required for very low income households, lower income  
35 households, or families of moderate income pursuant to subdivision  
36 (b).

37 (3) Notwithstanding any requirement of this subdivision, a city,  
38 county, or city and county shall not be required to provide a density  
39 bonus or concession for a child care facility if it finds, based upon

1 substantial evidence, that the community has adequate child care  
2 facilities.

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

7 (i) “Housing development,” as used in this section, means a  
8 development project for five or more residential units, including  
9 mixed-use developments as defined in Section 65950. For the  
10 purposes of this section, “housing development” also includes a  
11 subdivision or common interest development, as defined in Section  
12 4100 of the Civil Code, approved by a city, county, or city and  
13 county and consists of residential units or unimproved residential  
14 lots and either a project to substantially rehabilitate and convert  
15 an existing commercial building to residential use or the substantial  
16 rehabilitation of an existing multifamily dwelling, as defined in  
17 subdivision (d) of Section 65863.4, where the result of the  
18 rehabilitation would be a net increase in available residential units.  
19 For the purpose of calculating a density bonus, the residential units  
20 shall be on contiguous sites that are the subject of one development  
21 application, but do not have to be based upon individual  
22 subdivision maps or parcels. The density bonus shall be permitted  
23 in geographic areas of the housing development other than the  
24 areas where the units for the lower income households are located.

25 (j) (1) The granting of a concession or incentive shall not require  
26 or be interpreted, in and of itself, to require a general plan  
27 amendment, local coastal plan amendment, zoning change, special  
28 studies, or other discretionary approval. This provision is  
29 declaratory of existing law.

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

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

36 (1) A reduction in site development standards or a modification  
37 of zoning code requirements or architectural design requirements  
38 that exceed the minimum building standards approved by the  
39 California Building Standards Commission as provided in Part 2.5  
40 (commencing with Section 18901) of Division 13 of the Health

1 and Safety Code, including, but not limited to, a reduction in  
2 setback and square footage requirements and in the ratio of  
3 vehicular parking spaces that would otherwise be required that  
4 results in identifiable and actual cost reductions, ~~as determined by~~  
5 ~~the developer.~~ *reductions.*

6 (2) Approval of mixed-use zoning in conjunction with the  
7 housing project if commercial, office, industrial, or other land uses  
8 will reduce the cost of the housing development and if the  
9 commercial, office, industrial, or other land uses are compatible  
10 with the housing project and the existing or planned development  
11 in the area where the proposed housing project will be located.

12 (3) Other regulatory incentives or concessions proposed by the  
13 developer or the city, county, or city and county that result in  
14 identifiable and actual cost ~~reductions, as determined by the~~  
15 ~~developer.~~ *reductions.* In no case shall this include an increase in  
16 density above the percentages specified in subdivision (f).

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

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

25 (n) If permitted by local ordinance, nothing in this section shall  
26 be construed to prohibit a city, county, or city and county from  
27 granting a density bonus greater than what is described in this  
28 section for a development that meets the requirements of this  
29 section or from granting a proportionately lower density bonus  
30 than what is required by this section for developments that do not  
31 meet the requirements of this section.

32 (o) For purposes of this section, the following definitions shall  
33 apply:

34 (1) “Development standard” includes a site or construction  
35 condition, including, but not limited to, a height limitation, a  
36 setback requirement, a floor area ratio, an onsite open-space  
37 requirement, or a parking ratio that applies to a residential  
38 development pursuant to any ordinance, general plan element,  
39 specific plan, charter, or other local condition, law, policy,  
40 resolution, or regulation.

1 (2) “Maximum allowable residential density” means the density  
2 allowed under the zoning ordinance and land use element of the  
3 general plan, or if a range of density is permitted, means the  
4 maximum allowable density for the specific zoning range and land  
5 use element of the general plan applicable to the project. Where  
6 the density allowed under the zoning ordinance is inconsistent  
7 with the density allowed under the land use element of the general  
8 plan, the general plan density shall prevail.

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

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

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

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

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

30 (3) Notwithstanding paragraph (1), if a development consists  
31 solely of rental units, exclusive of a manager’s unit or units, with  
32 an affordable housing cost to lower income families, as provided  
33 in Section 50052.5 of the Health and Safety Code, then, upon the  
34 request of the developer, a city, county, or city and county shall  
35 not impose a vehicular parking ratio, inclusive of handicapped and  
36 guest parking, that exceeds the following ratios:

37 (A) If the development is located within one-half mile of a major  
38 transit stop, as defined in subdivision (b) of Section 21155 of the  
39 Public Resources Code, and there is unobstructed access to the

1 major transit stop from the development, the ratio shall not exceed  
2 0.5 spaces per unit.

3 (B) If the development is a for-rent housing development for  
4 individuals who are 62 years of age or older that complies with  
5 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed  
6 0.5 spaces per unit. The development shall have either paratransit  
7 service or unobstructed access, within one-half mile, to fixed bus  
8 route service that operates at least eight times per day.

9 (C) If the development is a special needs housing development,  
10 as defined in Section 51312 of the Health and Safety Code, the  
11 ratio shall not exceed 0.3 spaces per unit. The development shall  
12 have either paratransit service or unobstructed access, within  
13 one-half mile, to fixed bus route service that operates at least eight  
14 times per day.

15 (4) If the total number of parking spaces required for a  
16 development is other than a whole number, the number shall be  
17 rounded up to the next whole number. For purposes of this  
18 subdivision, a development may provide on-site parking through  
19 tandem parking or uncovered parking, but not through on-street  
20 parking.

21 (5) This subdivision shall apply to a development that meets  
22 the requirements of subdivisions (b) and (c), but only at the request  
23 of the applicant. An applicant may request parking incentives or  
24 concessions beyond those provided in this subdivision pursuant  
25 to subdivision (d).

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

29 (7) Notwithstanding paragraphs (2) and (3), if a city, county,  
30 city and county, or an independent consultant has conducted an  
31 areawide or jurisdictionwide parking study in the last seven years,  
32 then the city, county, or city and county may impose a higher  
33 vehicular parking ratio not to exceed the ratio described in  
34 paragraph (1), based upon substantial evidence found in the parking  
35 study, that includes, but is not limited to, an analysis of parking  
36 availability, differing levels of transit access, walkability access  
37 to transit services, the potential for shared parking, the effect of  
38 parking requirements on the cost of market-rate and subsidized  
39 developments, and the lower rates of car ownership for low- and  
40 very low income individuals, including seniors and special needs

1 individuals. The city, county, or city and county shall pay the costs  
2 of any new study. The city, county, or city and county shall make  
3 findings, based on a parking study completed in conformity with  
4 this paragraph, supporting the need for the higher parking ratio.

5 (q) Each component of any density calculation, including base  
6 density and bonus density, resulting in fractional units shall be  
7 separately rounded up to the next whole number. The Legislature  
8 finds and declares that this provision is declaratory of existing law.

9 (r) This chapter shall be interpreted liberally in favor of  
10 producing the maximum number of total housing units.

11 SEC. 2. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 a local agency or school district has the authority to levy service  
14 charges, fees, or assessments sufficient to pay for the program or  
15 level of service mandated by this act, within the meaning of Section  
16 17556 of the Government Code.