

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 15, 2016

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 authorizes the waiver or reduction of development standards that would preclude this development. 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 revise and recast these provisions to require the local government to adopt procedures and timelines for processing a density bonus application, provide a list of documents and information required to be submitted with the application in order for it to be deemed 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~~ *an* 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, or, if elected by the applicant, a lesser percentage of density increase or no increase in density.

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~~ *result in identifiable and actual cost reductions*, to provide for affordable housing costs or rents for the targeted ~~units~~ *units, as specified*.

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.

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 comply with this section. A city,  
7 county, or city and county shall adopt an ordinance that specifies  
8 how compliance with this section will be implemented. Failure to  
9 adopt an ordinance shall not relieve a city, county, or city and  
10 county from complying with this section.

11 (2) A local government shall not condition the submission,  
12 review, or approval of an application for a density bonus pursuant  
13 to this chapter on the preparation of an additional report or study  
14 that is not otherwise required by state law, including this section.  
15 *This subdivision does not prohibit a local government from*  
16 *requiring an applicant to provide reasonable documentation to*  
17 *establish eligibility for a requested density bonus, incentives or*  
18 *concessions, as described in subdivision (d), waivers or reductions*  
19 *of development standards, as described in subdivision (e), and*  
20 *parking ratios, as described in subdivision (p).*

21 (3) In order to provide for the expeditious processing of a density  
22 bonus application, the local government shall do all of the  
23 following:

24 (A) Adopt procedures and timelines for processing a density  
25 bonus application.

26 (B) Provide a list of all documents and information required to  
27 be submitted with the density bonus application in order for the  
28 density bonus application to be deemed complete. This list shall  
29 be consistent with this chapter.

1 (C) Notify the applicant for a density bonus whether the  
2 application is complete in a manner consistent with Section 65943.

3 (b) (1) A city, county, or city and county shall grant one density  
4 bonus, the amount of which shall be as specified in subdivision  
5 (f), *and, if requested by the applicant and consistent with the*  
6 *applicable requirements of this section*, incentives or concessions,  
7 as described in subdivision (d), waivers or reductions of  
8 development standards, as described in subdivision (e), and parking  
9 ratios, as described in subdivision ~~(p)~~: (p), when an applicant for  
10 a housing development seeks and agrees to construct a housing  
11 development, excluding any units permitted by the density bonus  
12 awarded pursuant to this section, that will contain at least any one  
13 of the following:

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

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

20 (C) A senior citizen housing development, as defined in Sections  
21 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
22 residency based on age requirements for housing for older persons  
23 pursuant to Section 798.76 or 799.5 of the Civil Code.

24 (D) Ten percent of the total dwelling units in a common interest  
25 development, as defined in Section 4100 of the Civil Code, for  
26 persons and families of moderate income, as defined in Section  
27 50093 of the Health and Safety Code, provided that all units in the  
28 development are offered to the public for purchase.

29 (2) For purposes of calculating the amount of the density bonus  
30 pursuant to subdivision (f), an applicant who requests a density  
31 bonus pursuant to this subdivision shall elect whether the bonus  
32 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
33 of paragraph (1).

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

38 (c) (1) An applicant shall agree to, and the city, county, or city  
39 and county shall ensure, the continued affordability of all very low  
40 and low-income rental units that qualified the applicant for the

1 award of the density bonus for 55 years or a longer period of time  
2 if required by the construction or mortgage financing assistance  
3 program, mortgage insurance program, or rental subsidy program.  
4 Rents for the lower income density bonus units shall be set at an  
5 affordable rent as defined in Section 50053 of the Health and Safety  
6 Code.

7 (2) An applicant shall agree to, and the city, county, or city and  
8 county shall ensure that, the initial occupant of all for-sale units  
9 that qualified the applicant for the award of the density bonus are  
10 persons and families of very low, low, or moderate income, as  
11 required, and that the units are offered at an affordable housing  
12 cost, as that cost is defined in Section 50052.5 of the Health and  
13 Safety Code. The local government shall enforce an equity sharing  
14 agreement, unless it is in conflict with the requirements of another  
15 public funding source or law. The following apply to the equity  
16 sharing agreement:

17 (A) Upon resale, the seller of the unit shall retain the value of  
18 any improvements, the downpayment, and the seller's proportionate  
19 share of appreciation. The local government shall recapture any  
20 initial subsidy, as defined in subparagraph (B), and its proportionate  
21 share of appreciation, as defined in subparagraph (C), which  
22 amount shall be used within five years for any of the purposes  
23 described in subdivision (e) of Section 33334.2 of the Health and  
24 Safety Code that promote home ownership.

25 (B) For purposes of this subdivision, the local government's  
26 initial subsidy shall be equal to the fair market value of the home  
27 at the time of initial sale minus the initial sale price to the  
28 moderate-income household, plus the amount of any downpayment  
29 assistance or mortgage assistance. If upon resale the market value  
30 is lower than the initial market value, then the value at the time of  
31 the resale shall be used as the initial market value.

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

36 (3) (A) An applicant shall be ineligible for a density bonus or  
37 any other incentives or concessions under this section if the housing  
38 development is proposed on any property that includes a parcel or  
39 parcels on which rental dwelling units are or, if the dwelling units  
40 have been vacated or demolished in the five-year period preceding

1 the application, have been subject to a recorded covenant,  
2 ordinance, or law that restricts rents to levels affordable to persons  
3 and families of lower or very low income; subject to any other  
4 form of rent or price control through a public entity's valid exercise  
5 of its police power; or occupied by lower or very low income  
6 households, unless the proposed housing development replaces  
7 those units, and either of the following applies:

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

11 (ii) Each unit in the development, exclusive of a manager's unit  
12 or units, is affordable to, and occupied by, either a lower or very  
13 low income household.

14 (B) For the purposes of this paragraph, "replace" shall mean  
15 either of the following:

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

34 (ii) If all dwelling units described in subparagraph (A) have  
35 been vacated or demolished within the five-year period preceding  
36 the application, the proposed housing development shall provide  
37 at least the same number of units of equivalent size or type, or  
38 both, as existed at the highpoint of those units in the five-year  
39 period preceding the application to be made available at affordable  
40 rent or affordable housing cost to, and occupied by, persons and

1 families in the same or lower income category as those persons  
2 and families in occupancy at that time, if known. If the incomes  
3 of the persons and families in occupancy at the highpoint is not  
4 known, then one-half of the required units shall be made available  
5 at affordable rent or affordable housing cost to, and occupied by,  
6 very low income persons and families and one-half of the required  
7 units shall be made available for rent at affordable housing costs  
8 to, and occupied by, low-income persons and families. All  
9 replacement calculations resulting in fractional units shall be  
10 rounded up to the next whole number. If the replacement units will  
11 be rental dwelling units, these units shall be subject to a recorded  
12 affordability restriction for at least 55 years. If the proposed  
13 development is for-sale units, the units replaced shall be subject  
14 to paragraph (2).

15 (C) Paragraph (3) of subdivision (c) does not apply to an  
16 applicant seeking a density bonus for a proposed housing  
17 development if his or her application was submitted to, or  
18 processed by, a city, county, or city and county before January 1,  
19 2015.

20 (d) (1) An applicant for a density bonus pursuant to subdivision  
21 (b) may submit to a city, county, or city and county a proposal for  
22 the specific incentives or concessions that the applicant requests  
23 pursuant to this section, and may request a meeting with the city,  
24 county, or city and county. The city, county, or city and county  
25 shall grant the concession or incentive requested by the applicant  
26 unless the city, county, or city and county makes a written finding,  
27 based upon substantial evidence, of any of the following:

28 (A) The concession or incentive does not ~~reduce the cost of~~  
29 ~~development~~ *result in identifiable and actual cost reductions,*  
30 *consistent with subdivision (k),* to provide for affordable housing  
31 costs, as defined in Section 50052.5 of the Health and Safety Code,  
32 or for rents for the targeted units to be set as specified in  
33 subdivision (c).

34 (B) The concession or incentive would have a specific adverse  
35 impact, as defined in paragraph (2) of subdivision (d) of Section  
36 65589.5, upon public health and safety or the physical environment  
37 or on any real property that is listed in the California Register of  
38 Historical Resources and for which there is no feasible method to  
39 satisfactorily mitigate or avoid the specific adverse impact without

1 rendering the development unaffordable to low- and  
2 moderate-income households.

3 (C) The concession or incentive would be contrary to state or  
4 federal law.

5 (2) The applicant shall receive the following number of  
6 incentives or concessions:

7 (A) One incentive or concession for projects that include at least  
8 10 percent of the total units for lower income households, at least  
9 5 percent for very low income households, or at least 10 percent  
10 for persons and families of moderate income in a common interest  
11 development.

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

17 (C) Three incentives or concessions for projects that include at  
18 least 30 percent of the total units for lower income households, at  
19 least 15 percent for very low income households, or at least 30  
20 percent for persons and families of moderate income in a common  
21 interest development.

22 (3) The applicant may initiate judicial proceedings if the city,  
23 county, or city and county refuses to grant a requested density  
24 bonus, incentive, or concession. If a court finds that the refusal to  
25 grant a requested density bonus, incentive, or concession is in  
26 violation of this section, the court shall award the plaintiff  
27 reasonable attorney’s fees and costs of suit. Nothing in this  
28 subdivision shall be interpreted to require a local government to  
29 grant an incentive or concession that has a specific, adverse impact,  
30 as 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 grant an incentive or  
35 concession that would have an adverse impact on any real property  
36 that is listed in the California Register of Historical Resources.  
37 The city, county, or city and county shall establish procedures for  
38 carrying out this section, that shall include legislative body  
39 approval of the means of compliance with this section.

1 (4) The city, county, or city and county shall bear the burden  
2 of proof for the denial of a requested concession or incentive.

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

29 (2) A proposal for the waiver or reduction of development  
30 standards pursuant to this subdivision shall neither reduce nor  
31 increase the number of incentives or concessions to which the  
32 applicant is entitled pursuant to subdivision (d).

33 (f) For the purposes of this chapter, “density bonus” means a  
34 density increase over the otherwise maximum allowable gross  
35 residential density as of the date of application by the applicant to  
36 the city, county, or city and county, or, if elected by the applicant,  
37 a lesser percentage of density increase, including, but not limited  
38 to, no increase in density. The amount of density increase to which  
39 the applicant is entitled shall vary according to the amount by

1 which the percentage of affordable housing units exceeds the  
2 percentage established in subdivision (b).

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

	Percentage Low-Income Units	Percentage Density Bonus
6		
7		
8		
9	10	20
10	11	21.5
11	12	23
12	13	24.5
13	14	26
14	15	27.5
15	17	30.5
16	18	32
17	19	33.5
18	20	35

19  
20 (2) For housing developments meeting the criteria of  
21 subparagraph (B) of paragraph (1) of subdivision (b), the density  
22 bonus shall be calculated as follows:

	Percentage Very Low Income Units	Percentage Density Bonus
23		
24		
25	5	20
26	6	22.5
27	7	25
28	8	27.5
29	9	30
30	10	32.5
31	11	35

32  
33 (3) For housing developments meeting the criteria of  
34 subparagraph (C) of paragraph (1) of subdivision (b), the density  
35 bonus shall be 20 percent of the number of senior housing units.

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

	Percentage Moderate-Income Units	Percentage Density Bonus
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1	10	5
2	11	6
3	12	7
4	13	8
5	14	9
6	15	10
7	16	11
8	17	12
9	18	13
10	19	14
11	20	15
12	21	16
13	22	17
14	23	18
15	24	19
16	25	20
17	26	21
18	27	22
19	28	23
20	29	24
21	30	25
22	31	26
23	32	27
24	33	28
25	34	29
26	35	30
27	36	31
28	37	32
29	38	33
30	39	34
31	40	35

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

38 (g) (1) When an applicant for a tentative subdivision map,  
39 parcel map, or other residential development approval donates  
40 land to a city, county, or city and county in accordance with this

1 subdivision, the applicant shall be entitled to a 15-percent increase  
2 above the otherwise maximum allowable residential density for  
3 the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
4		
5		
6	10	15
7	11	16
8	12	17
9	13	18
10	14	19
11	15	20
12	16	21
13	17	22
14	18	23
15	19	24
16	20	25
17	21	26
18	22	27
19	23	28
20	24	29
21	25	30
22	26	31
23	27	32
24	28	33
25	29	34
26	30	35

27  
28 (2) This increase shall be in addition to any increase in density  
29 mandated by subdivision (b), up to a maximum combined mandated  
30 density increase of 35 percent if an applicant seeks an increase  
31 pursuant to both this subdivision and subdivision (b). All density  
32 calculations resulting in fractional units shall be rounded up to the  
33 next whole number. Nothing in this subdivision shall be construed  
34 to enlarge or diminish the authority of a city, county, or city and  
35 county to require a developer to donate land as a condition of  
36 development. An applicant shall be eligible for the increased  
37 density bonus described in this subdivision if all of the following  
38 conditions are met:

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

4 (B) The developable acreage and zoning classification of the  
5 land being transferred are sufficient to permit construction of units  
6 affordable to very low income households in an amount not less  
7 than 10 percent of the number of residential units of the proposed  
8 development.

9 (C) The transferred land is at least one acre in size or of  
10 sufficient size to permit development of at least 40 units, has the  
11 appropriate general plan designation, is appropriately zoned with  
12 appropriate development standards for development at the density  
13 described in paragraph (3) of subdivision (c) of Section 65583.2,  
14 and is or will be served by adequate public facilities and  
15 infrastructure.

16 (D) The transferred land shall have all of the permits and  
17 approvals, other than building permits, necessary for the  
18 development of the very low income housing units on the  
19 transferred land, not later than the date of approval of the final  
20 subdivision map, parcel map, or residential development  
21 application, except that the local government may subject the  
22 proposed development to subsequent design review to the extent  
23 authorized by subdivision (i) of Section 65583.2 if the design is  
24 not reviewed by the local government prior to the time of transfer.

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

29 (F) The land is transferred to the local agency or to a housing  
30 developer approved by the local agency. The local agency may  
31 require the applicant to identify and transfer the land to the  
32 developer.

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

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

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

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

9 (B) An additional concession or incentive that contributes  
10 significantly to the economic feasibility of the construction of the  
11 child care facility.

12 (2) The city, county, or city and county shall require, as a  
13 condition of approving the housing development, that the following  
14 occur:

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

19 (B) Of the children who attend the child care facility, the  
20 children of very low income households, lower income households,  
21 or families of moderate income shall equal a percentage that is  
22 equal to or greater than the percentage of dwelling units that are  
23 required for very low income households, lower income  
24 households, or families of moderate income pursuant to subdivision  
25 (b).

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

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

35 (i) “Housing development,” as used in this section, means a  
36 development project for five or more residential units, including  
37 mixed-use developments. For the purposes of this section, “housing  
38 development” also includes a subdivision or common interest  
39 development, as defined in Section 4100 of the Civil Code,  
40 approved by a city, county, or city and county and consists of

1 residential units or unimproved residential lots and either a project  
2 to substantially rehabilitate and convert an existing commercial  
3 building to residential use or the substantial rehabilitation of an  
4 existing multifamily dwelling, as defined in subdivision (d) of  
5 Section 65863.4, where the result of the rehabilitation would be a  
6 net increase in available residential units. For the purpose of  
7 calculating a density bonus, the residential units shall be on  
8 contiguous sites that are the subject of one development  
9 application, but do not have to be based upon individual  
10 subdivision maps or parcels. The density bonus shall be permitted  
11 in geographic areas of the housing development other than the  
12 areas where the units for the lower income households are located.

13 (j) (1) The granting of a concession or incentive shall not require  
14 or be interpreted, in and of itself, to require a general plan  
15 amendment, local coastal plan amendment, zoning change, ~~special~~  
16 ~~studies, study,~~ or other discretionary approval. *For purposes of*  
17 *this subdivision, “study” does not include reasonable*  
18 *documentation to establish eligibility for the concession or*  
19 *incentive or to demonstrate that the incentive or concession meets*  
20 *the definition set forth in subdivision (k).* This provision is  
21 declaratory of existing law.

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

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

28 (1) A reduction in site development standards or a modification  
29 of zoning code requirements or architectural design requirements  
30 that exceed the minimum building standards approved by the  
31 California Building Standards Commission as provided in Part 2.5  
32 (commencing with Section 18901) of Division 13 of the Health  
33 and Safety Code, including, but not limited to, a reduction in  
34 setback and square footage requirements and in the ratio of  
35 vehicular parking spaces that would otherwise be required that  
36 results in identifiable and actual cost ~~reductions,~~ *reductions, to*  
37 *provide for affordable housing costs, as defined in Section 50052.5*  
38 *of the Health and Safety Code, or for rents for the targeted units*  
39 *to be set as specified in subdivision (c).*

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

7 (3) Other regulatory incentives or concessions proposed by the  
8 developer or the city, county, or city and county that result in  
9 identifiable and actual cost ~~reductions~~. *reductions to provide for*  
10 *affordable housing costs, as defined in Section 50052.5 of the*  
11 *Health and Safety Code, or for rents for the targeted units to be*  
12 *set as specified in subdivision (c).* In no case shall this include an  
13 increase in density above the percentages specified in subdivision  
14 (f).

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

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

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

30 (o) For purposes of this section, the following definitions shall  
31 apply:

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

39 (2) “Maximum allowable residential density” means the density  
40 allowed under the zoning ordinance and land use element of the

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

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

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

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

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

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

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

35 (A) If the development is located within one-half mile of a major  
36 transit stop, as defined in subdivision (b) of Section 21155 of the  
37 Public Resources Code, and there is unobstructed access to the  
38 major transit stop from the development, the ratio shall not exceed  
39 0.5 spaces per unit.

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

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

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

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

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

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

1 findings, based on a parking study completed in conformity with  
2 this paragraph, supporting the need for the higher parking ratio.

3 (8) A request pursuant to this subdivision shall neither reduce  
4 nor increase the number of incentives or concessions to which the  
5 applicant is entitled pursuant to subdivision (d).

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

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

12 SEC. 2. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 a local agency or school district has the authority to levy service  
15 charges, fees, or assessments sufficient to pay for the program or  
16 level of service mandated by this act, within the meaning of Section  
17 17556 of the Government Code.