

AMENDED IN SENATE AUGUST 18, 2008
AMENDED IN SENATE AUGUST 13, 2008
AMENDED IN SENATE JUNE 24, 2008
AMENDED IN ASSEMBLY JANUARY 17, 2008
AMENDED IN ASSEMBLY APRIL 23, 2007
AMENDED IN ASSEMBLY MARCH 29, 2007
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 842

**Introduced by Assembly Member Jones
(Principal coauthors: Assembly Members DeSaulnier, Hancock,
and Lieu)**

February 22, 2007

An act to amend Sections 53545.13 and 53563 of the Health and Safety Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 842, as amended, Jones. Regional plans: traffic reduction.

Existing

(1) *Existing* law authorizes the Department of Housing and Community Development to administer the Infill Incentive Grant Program of 2007, to fund selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or a qualifying infill area, and specifies the conditions that a qualifying infill project or qualifying infill area must meet to receive a capital improvement project grant award. The department is also required to review and rank applicants for the award

of capital improvement project grants based upon various priorities, including, among others, project readiness, the depth and duration of the affordability of the housing proposed for a qualifying infill project or qualifying infill area, and the proximity of housing to parks, employment or retail centers, schools, or social services.

This bill would additionally require the department to rank applicants for the award of capital improvement project grants based upon a reduction of vehicle miles traveled as a result of the project, as specified.

(2) This bill would incorporate changes made by AB 1366 that would become operative if both bills are enacted and this bill is enacted after AB 1366.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 53545.13 of the Health and Safety Code
2 is amended to read:

3 53545.13. (a) The Infill Incentive Grant Program of 2007 is
4 hereby established to be administered by the department.

5 (b) Upon appropriation of funds by the Legislature for the
6 purpose of implementing paragraph (1) of subdivision (b) of
7 Section 53545, the department shall establish and administer a
8 competitive grant program to allocate those funds to selected
9 capital improvement projects that are an integral part of, or
10 necessary to facilitate the development of, a qualifying infill project
11 or a qualifying infill area.

12 (c) A qualifying infill project or qualifying infill area for which
13 a capital improvement project grant may be awarded shall meet
14 all of the following conditions:

15 (1) Be located in a city, county, or city and county, in which
16 the general plan of the city, county, or city and county, has an
17 adopted housing element that has been found by the department,
18 pursuant to Section 65585 of the Government Code, to be in
19 compliance with the requirements of Article 10.6 (commencing
20 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
21 Government Code.

22 (2) Include not less than 15 percent of affordable units, as
23 follows:

1 (A) For projects that contain both rental and ownership units,
2 units of either or both product types may be included in the
3 calculation of the affordability criteria.

4 (B) (i) To the extent included in a project grant application, for
5 the purpose of calculating the percentage of affordable units, the
6 department may consider the entire master development in which
7 the development seeking grant funding is included.

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

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

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

34 (3) Include average residential densities on the parcels to be
35 developed that are equal to or greater than the densities described
36 in subparagraph (B) of paragraph (3) of subdivision (c) of Section
37 65583.2 of the Government Code, except that a project located in
38 a rural area as defined in Section 50199.21 shall include average
39 residential densities on the parcels to be developed of at least 10
40 units per acre.

- 1 (4) Be located in an area designated for mixed-use or residential
2 development pursuant to one of the following adopted plans:
- 3 (A) A general plan adopted pursuant to Section 65300 of the
4 Government Code.
- 5 (B) A project area redevelopment plan approved pursuant to
6 Section 33330.
- 7 (C) A regional blueprint plan as defined in the California
8 Regional Blueprint Planning Program administered by the
9 Business, Transportation and Housing Agency, or a regional plan
10 as defined in Section 65060.7 of the Government Code.
- 11 (5) For qualifying infill projects or qualifying infill areas located
12 in a redevelopment project area, meet the requirements contained
13 in subdivision (a) of Section 33413.
- 14 (d) In its review and ranking of applications for the award of
15 capital improvement project grants, the department shall rank the
16 affected qualifying infill projects and qualifying infill areas based
17 on the following priorities:
- 18 (1) Project readiness, which shall include all of the following:
- 19 (A) A demonstration that the project or area development can
20 complete environmental review and secure necessary entitlements
21 from the local jurisdiction within a reasonable period of time
22 following the submittal of a grant application.
- 23 (B) A demonstration that the eligible applicant can secure
24 sufficient funding commitments derived from sources other than
25 this part for the timely development of a qualifying infill project
26 or development of a qualifying infill area.
- 27 (C) A demonstration that the project or area development has
28 sufficient local support to achieve the proposed improvement.
- 29 (2) The depth and duration of the affordability of the housing
30 proposed for a qualifying infill project or qualifying infill area.
- 31 (3) The extent to which the average residential densities on the
32 parcels to be developed exceed the density standards contained in
33 paragraph (3) of subdivision (c).
- 34 (4) The qualifying infill project's or qualifying infill area's
35 inclusion of, or proximity or accessibility to, a transit station or
36 major transit stop.
- 37 (5) The proximity of housing to parks, employment or retail
38 centers, schools, or social services.
- 39 (6) The qualifying infill project or qualifying infill area
40 location's consistency with an adopted regional blueprint plan or

1 other adopted regional growth plan intended to foster efficient land
2 use.

3 (7) Applications for projects that are located in a city, county,
4 or city and county that has adopted a general plan that will reduce
5 the growth increment in vehicle miles traveled by at least 10
6 percent, and the project is consistent with the plan.

7 (8) Applications for projects that are located in a region covered
8 by a council of governments that has adopted a transportation plan,
9 a regional transportation plan, a regional blueprint, or similar
10 document that will reduce the growth increment in vehicle miles
11 traveled by at least 10 percent, and the project is consistent with
12 the plan, blueprint, or similar document.

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

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

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

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

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

31 (h) For each fiscal year within the duration of the grant program,
32 the department shall include within the report to the Legislature,
33 required by Section 50408, information on its activities relating
34 to the grant program. The report shall include, but is not limited
35 to, the following information:

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

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

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

4 *SEC. 1.5. Section 53545.13 of the Health and Safety Code is*
5 *amended to read:*

6 53545.13. (a) The Infill Incentive Grant Program of 2007 is
7 hereby established to be administered by the department.

8 (b) Upon appropriation of funds by the Legislature for the
9 purpose of implementing paragraph (1) of subdivision (b) of
10 Section 53545, the department shall establish and administer a
11 competitive grant program to allocate those funds to selected
12 capital improvement projects that are an integral part of, or
13 necessary to facilitate the development of, a qualifying infill project
14 or a qualifying infill area.

15 (c) A qualifying infill project or qualifying infill area for which
16 a capital improvement project grant may be awarded shall meet
17 all of the following conditions:

18 (1) Be located in a city, county, or city and county, in which
19 the general plan of the city, county, or city and county, has an
20 adopted housing element that has been found by the department,
21 pursuant to Section 65585 of the Government Code, to be in
22 compliance with the requirements of Article 10.6 (commencing
23 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
24 Government Code, *and in which the jurisdiction, with respect to*
25 *any application submitted on or after the April 1 following the*
26 *department's adoption of forms and definitions, has submitted to*
27 *the department the annual progress report required under Section*
28 *65400 of the Government Code within the 12 months preceding*
29 *the submittal of an application for funding under the program.*

30 (2) Include not less than 15 percent of affordable units, as
31 follows:

32 (A) For projects that contain both rental and ownership units,
33 units of either or both product types may be included in the
34 calculation of the affordability criteria.

35 (B) (i) To the extent included in a project grant application, for
36 the purpose of calculating the percentage of affordable units, the
37 department may consider the entire master development in which
38 the development seeking grant funding is included.

39 (ii) Where applicable, an applicant may include a replacement
40 housing plan to ensure that dwelling units housing persons and

1 families of low or moderate income are not removed from the low-
2 and moderate-income housing market. Residential units to be
3 replaced may not be counted toward meeting the affordability
4 threshold required for eligibility for funding under this section.

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

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

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

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

34 (A) A general plan adopted pursuant to Section 65300 of the
35 Government Code.

36 (B) A project area redevelopment plan approved pursuant to
37 Section 33330.

38 (C) A regional blueprint plan as defined in the California
39 Regional Blueprint Planning Program administered by the

1 Business, Transportation and Housing Agency, or a regional plan
2 as defined in Section 65060.7 of the Government Code.

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

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

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

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

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

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

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

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

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

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

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

35 (7) *Applications for projects that are located in a city, county,*
36 *or city and county that has adopted a general plan that will reduce*
37 *the growth increment in vehicle miles traveled by at least 10*
38 *percent, and the project is consistent with the plan.*

39 (8) *Applications for projects that are located in a region covered*
40 *by a council of governments that has adopted a transportation*

1 *plan, a regional transportation plan, a regional blueprint, or*
2 *similar document that will reduce the growth increment in vehicle*
3 *miles traveled by at least 10 percent, and the project is consistent*
4 *with the plan, blueprint, or similar document.*

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

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

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

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

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

23 (h) For each fiscal year within the duration of the grant program,
24 the department shall include within the report to the Legislature,
25 required by Section 50408, information on its activities relating
26 to the grant program. The report shall include, but is not limited
27 to, the following information:

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

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

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

35 SEC. 2. Section 53563 of the Health and Safety Code is
36 amended to read:

37 53563. (a) In ranking applications pursuant to this part, the
38 department shall, among other criteria, consider the extent to which
39 the project or development will increase public transit ridership
40 and minimize automobile trips.

1 (b) The department shall also grant bonus points to projects or
2 developments that are in an area designated by the appropriate
3 council of governments for infill development as part of a regional
4 plan.

5 (c) In ranking applications received pursuant to this section, the
6 department shall award a substantial preference to both of the
7 following:

8 (1) Applications for projects that are located in a city, county,
9 or city and county that has adopted a general plan that will reduce
10 the growth increment in vehicle miles traveled by at least 10
11 percent and the project is consistent with the plan.

12 (2) Applications for projects that are located in a region covered
13 by a council of governments that has adopted a transportation plan,
14 a regional transportation plan, a regional blueprint, or similar
15 document that will reduce the growth increment in vehicle miles
16 traveled by at least 10 percent and the project is consistent with
17 the plan, blueprint, or similar document.

18 (d) In ranking applications pursuant to this part, the department
19 shall rely upon the expertise of the Department of Transportation.

20 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
21 *Section 53545.13 of the Health and Safety Code proposed by both*
22 *this bill and AB 1366. It shall only become operative if (1) both*
23 *bills are enacted and become effective on or before January 1,*
24 *2009, (2) each bill amends Section 53545.13 of the Health and*
25 *Safety Code, and (3) this bill is enacted after AB 1366, in which*
26 *case Section 1 of this bill shall not become operative.*