

**Assembly Bill No. 842**

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Passed the Assembly August 29, 2008

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*Chief Clerk of the Assembly*

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Passed the Senate August 20, 2008

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

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, Jones. Regional plans: traffic reduction.

(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.

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

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

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

(b) Upon appropriation of funds by the Legislature for the purpose of implementing paragraph (1) of subdivision (b) of Section 53545, the department shall establish and administer a

competitive grant program to allocate those funds to 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than

this part for the timely development of a qualifying infill project or development of a qualifying infill area.

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

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

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

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

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

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

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

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

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

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

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

(2) The guidelines shall include provisions for the reversion of grant awards that are not encumbered within four years of the fiscal year in which an award was made, and for the recapture of grants

awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department.

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

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

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

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

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

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

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

(b) Upon appropriation of funds by the Legislature for the purpose of implementing paragraph (1) of subdivision (b) of Section 53545, the department shall establish and administer a competitive grant program to allocate those funds to 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.

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

(1) Be located in a city, county, or city and county, in which the general plan of the city, county, or city and county, has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and in which the jurisdiction, with respect to any application submitted on or after the April 1 following the

department's adoption of forms and definitions, has submitted to the department the annual progress report required under Section 65400 of the Government Code within the 12 months preceding the submittal of an application for funding under the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) For each fiscal year within the duration of the grant program, the department shall include within the report to the Legislature, required by Section 50408, information on its activities relating

to the grant program. The report shall include, but is not limited to, the following information:

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

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

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

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

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

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

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

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

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

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

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 53545.13 of the Health and Safety Code proposed by both this bill and AB 1366. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 53545.13 of the Health and

Safety Code, and (3) this bill is enacted after AB 1366, in which case Section 1 of this bill shall not become operative.









Approved \_\_\_\_\_, 2008

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*Governor*