

Date of Hearing: July 14, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 290 (Skinner) – As Introduced February 1, 2021

Policy Committee:	Housing and Community Development	Vote:	8 - 0
	Local Government		7 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill makes various changes to density bonus law, including providing additional benefits to certain moderate-income housing developments. Among its provisions, this bill:

- 1) Expands the types of for-sale moderate-income housing units that can benefit from a density bonus by deleting the existing law requirement that the units be in a “common interest development.”
- 2) Requires a planning agency of a city or county to report in its housing element annual report the number of units for lower-income students that were included in a student housing development for which a developer received a density bonus.
- 3) Makes a student housing development containing at least 20% of the units for lower-income students, as defined, eligible for one incentive or concession.
- 4) Allows moderate-income housing developments that include 40% moderate income for-sale housing and are within in one-half mile of a major transit stop to receive a parking reduction of 0.5 parking spaces per bedroom.
- 5) Defines “total units” or “total dwelling units” in a density bonus project as a calculation of the number of units that excludes a unit added by a specified density bonus and includes a unit designated to satisfy an inclusionary zoning requirement of a local agency.

FISCAL EFFECT:

- 1) The Department of Housing and Community Development (HCD) estimates costs of \$95,000 (General Fund) annually for two years to update guidance documents for the density bonus law, investigate violations and to provide technical assistance and outreach education to local agencies and affordable housing developers.
- 2) Local costs of an unknown amount to make the necessary changes and provide for the additional incentives as required by this bill. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

COMMENTS:

- 1) **Purpose.** This bill seeks to increase affordable housing production in the state by improving and clarifying density bonus law, in order to expand its use.
- 2) **Background.** Density bonus is a tool to encourage the production of affordable housing by market-rate developers, although it is used by developers of 100% affordable developments as well. In return for inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density and concessions and incentives. The increase in density and concessions and incentives are intended to financially support the inclusion of the affordable units.

Every local government is required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus on top of the local government's zoned density in exchange for including extremely-low-, very-low-, low- and moderate-income housing. Local governments must grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of several specified types of affordable units.

- 3) **Moderate-income Housing.** State density bonus law allows a developer to receive a density bonus for moderate-income for-sale housing. Developers can receive a density bonus if they offer 10% of the units in a common interest development for sale to moderate-income owners. This bill expands the types of housing options that could utilize density bonus by eliminating the reference to common interest developments. In addition, the bill expands the existing parking incentives for lower-income housing to moderate-income housing. A developer that restricts 40% of the units in a development to moderate income could reduce parking to 0.5 spaces if the development is within one-half mile of transit.
- 4) **Incentives for Student Housing.** Existing law requires a city or county to grant a density bonus when an applicant for a housing development of five or more units agrees to construct a student housing development that will set aside at least 20% of the total units for lower-income students. This bill seeks to further incentivize housing for lower-income students by additionally making such a development eligible for one incentive or concession.
- 5) **Support and Opposition.** Supporters, primarily developers and builders, argue this bill will provide additional incentives for the production of much needed moderate income housing. Opponents, primarily cities and neighborhood groups, argue this bill undermines existing local control, while some affordable housing advocates argue the bill prioritizes moderate income housing over lower income housing.
- 6) **Prior Legislation.**

SB 1085 (Skinner), of the 2019-20 Legislative Session, was nearly identical to this bill. SB 1085 was not taken up for concurrence on the Senate Floor.

AB 2345 (Gonzalez), Chapter 197, Statutes of 2020, increases the maximum allowable density and the number of concessions and incentives a developer can seek for housing developments that provide specific percentages of very-low-, low- and moderate-income housing units.

AB 1763 (Chiu), Chapter 666, Statutes of 2019, requires a city or county to award a developer additional density, concessions and incentives and height increases if 100% of the units in a development are restricted to lower-income households.

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