Date of Hearing: May 17, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 1287 (Alvarez) – As Amended April 26, 2023

Policy Committee:	Housing and Community Development	Vote:	8 - 0
	Natural Resources		10 - 0

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

SUMMARY:

This bill requires a city or county to grant additional density bonus and concessions and incentives if an applicant agrees to include additional moderate income units beyond the maximum amount of units for lower, very low, or moderate income units.

Specifically, this bill, requires a city, county, or city and county to grant an applicant for a density bonus the additional following incentives or concessions:

1) Four incentives or concessions for projects that include at least 16% of the units for very low income households or at least 45% for persons and families of moderate income in a development in which the units are for sale.

2) Five incentives or concessions for a project in which 100% of all units are for lower income households (current law provides four incentives).

FISCAL EFFECT:

Local costs of an unknown amount to local agencies to meet the new density bonus requirements in this bill. These costs are not reimbursable by the state because local agencies have general authority to charge and adjust fees to cover these activities.

COMMENTS:

1) **Purpose.** This bill creates a "super" density bonus based on an ordinance in San Diego that is intended to incentivize more moderate-income housing. According to the author:

> While we must continue to support more affordable housing for low-income families, a holistic approach to the housing crisis requires we also tackle housing unaffordability for middle-income earners. [This bill] does this by creating moderate income benefits, which would stack on top of the existing Density Bonus Law benefits. Importantly, this bill requires that a project maximizes the production of Very-Low, Low, or Moderate Income units, as allowed by current Density Bonus Law, before they can take advantage of the incentives in [this bill]. This structure ensures that the new Moderate Income Bonus never undermines existing incentives under Density Bonus Law.

2) **Background.** Density Bonus Law (DBL) was originally enacted in 1979 as an incentive to encourage housing developers to produce affordable units that can be offered at below market-rates. In return for including a certain percentage of affordable units, housing developers receive the ability to add additional units for their project above the jurisdiction's allowable zoned density for the site ("density bonus"). In order to qualify for a density bonus a developer of multifamily housing (5+ units) must agree to build housing with specified percentages of low or very-low income housing.

   The affordability requirements for units built via density bonus run for a minimum of 55 years. Additionally, DBL specifies concessions and incentives around development standards (e.g., architectural, height, setback requirements) and reductions in vehicle parking requirements that projects can receive to offset the cost of building affordable units. Both market rate and 100% affordable housing projects can use the provisions and all local governments are required to adopt a density bonus ordinance. However, failure to adopt an ordinance does not exempt a local government from complying with state density bonus law.

   DBLprovides more density and incentives and concessions to developers the more affordable units provided and the more deeply affordable the units. A developer can get three concessions and incentives for including the maximum amount of lower income (24%), very low income (15%) and moderate income units (44%) in a development. A developer that makes 100% of the units affordable can get four concessions and incentives if located within one-half mile of a major transit stop or a designated low vehicle-miles-travelled area. This bill would give up to five concessions and incentives if a developer met the maximum unit amount described above and includes the additional moderate income units above those thresholds.

3) **Arguments in Support.** According California YIMBY:

   > [This bill] creates a new incentive that can only be used when a project maximizes the production of Very Low-, Low-, or Moderate-Income units, as allowed by current Density Bonus Law. Only when those maximums are met, does an additional bonus become available when a project deed-restricts an additional set of Moderate-Income units. This structure ensures that the new Moderate-Income Bonus never undermines existing incentives under Density Bonus Law. In fact, it even creates new economic reasons to maximize deeply affordable unit production, by offering an additional sweetener in the form of the stacked bonus and additional concessions.

4) **Arguments in Opposition**. According to the California Contract Cities Association:

   > Cities have the authority and ability to fashion housing and development policies that will impact local communities. Every city is different and these unique attributes should be a key consideration when developing policies that will impact local communities. In its current form, the Density Bonus Law serves as a robust set of rules and incentives for housing developments across the state. By adding new layers of requirements to Density Bonus Law, [this bill] would broaden a-one-size-

all fit to development affordable housing, limiting cities ability to address the specific housing needs of their citizens.

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