

CONCURRENCE IN SENATE AMENDMENTS

AB 1287 (Alvarez)

As Amended September 8, 2023

Majority vote

SUMMARY

Requires a city, county, or city and county to grant additional density and concessions and incentives if an applicant agrees to include additional low or moderate income units on top of the maximum amount of units for lower, very low, or moderate income units.

Senate Amendments

Incorporate provisions of AB 440 (Wicks) that clarify that the base density for a development requesting a density bonus is the greatest allowable density in the zoning ordinance, specific plan, or the land use element of the general plan. Provide that any additional density will be calculated based on the number of units excluding the density bonus units.

COMMENTS

Density Bonus Law: DBL was originally enacted in 1979 as an incentive to encourage housing developers to produce affordable units which can be offered at below market-rates.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 (thus the term "density bonus"). In order to qualify for a density bonus a developer of multifamily housing (5+ units) must agree to build housing that includes at least one of the following:

- 1) 10% of all units for lower-income households;
- 2) 5% of all units for very low-income households,
- 3) Specified senior housing;
- 4) 10% of all units in a CID for moderate income individuals and families;
- 5) 10% of all units for transition age foster youth, disabled veterans, or individuals experiencing homelessness; or
- 6) 20% of all units for lower-income students within in student housing development.

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.

Concessions and Incentives: Density bonus law provides 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 (VMT) area.

Moderate Income: Density bonus law only applies to moderate income for-sale housing. Although the bill is not currently drafted to apply to moderate income rental housing, the sponsor shared that is their intent. Moderate income is defined as a household that makes 120% of the AMI. In some jurisdictions, moderate income is market rate. The purposes of density bonus is to support the inclusion of affordable housing in a development by providing enough density and concession and incentives to offset the cost of the affordable housing without additional ongoing subsidy – in effect, to "pay for" those additional affordable units. This bill would provide an additional density and concession and incentives if a developer includes the maximum amount of lower, very low and moderate-income units required under density bonus as well as an additional percentage of either very low or moderate-income units.

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. AB 1287 does this by creating moderate income benefits, which would stack on top of the existing Density Bonus Law benefits.

Importantly, AB 1287 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 AB 1287. 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."

Arguments in Support

According sponsors of this bill, "AB 1287 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."

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, AB 1287 would broaden a one-size-all fit to development affordable housing, limiting cities ability to address the specific housing needs of their citizens."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, 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.

VOTES:**ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0**

YES: Wicks, Joe Patterson, Wendy Carrillo, Gabriel, Kalra, Quirk-Silva, Sanchez, Ward

ASM NATURAL RESOURCES: 10-0-1

YES: Luz Rivas, Flora, Addis, Friedman, Hoover, Mathis, Pellerin, Ward, Wood, Zbur

ABS, ABST OR NV: Muratsuchi

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Ortega

ABS, ABST OR NV: Weber

ASSEMBLY FLOOR: 72-1-7

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Berman, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Megan Dahle, Davies, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO: Boerner

ABS, ABST OR NV: Bennett, Calderon, Connolly, Dixon, Essayli, Muratsuchi, Ta

UPDATED

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