
THIRD READING

Bill No: AB 87
Author: Boerner (D)
Amended: 8/26/25 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 10-1, 6/24/25
AYES: Wahab, Seyarto, Arreguín, Cabaldon, Caballero, Cortese, Durazo,
Gonzalez, Grayson, Padilla
NOES: Ochoa Bogh

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 7/9/25
AYES: Durazo, Choi, Arreguín, Cabaldon, Laird, Seyarto, Wiener

ASSEMBLY FLOOR: 75-0, 5/12/25 - See last page for vote

SUBJECT: Housing development: density bonuses

SOURCE: Author

DIGEST: This bill provides that a local government is not required to grant a concession or incentive to a hotel or motel as part of a housing development project, as specified.

Senate Floor Amendments of 8/26/2025 resolve chaptering conflicts with SB 92 (Blakespear).

ANALYSIS:

Existing law:

- 1) Requires each city and county to adopt an ordinance that specifies how it will implement state density bonus law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development — defined as “five or more units” including mixed-use developments — seeks and agrees to construct a project that will contain at least one of the following:

- a) 10% of the total units of a housing development for lower-income households;
 - b) 5% of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or mobile home park;
 - d) 10% of the units in a common interest development for moderate-income households;
 - e) 10% of the total units for transitional foster youth, veterans, or persons experiencing homelessness;
 - f) 20% of the total units for lower-income students in a student housing development; or
 - g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.
- 2) Requires a city or county to allow an increase in density on a sliding scale from 20% to 80%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

This bill:

- 1) Provides that a local government is not required to grant a concession or incentive to a hotel, motel, bed and breakfast inn, or other transient lodging, other than a residential hotel, as part of a housing development project. “Other transient lodging” does not include a resident’s use or marketing of their unit as short-term lodging.
- 2) Makes other technical changes.

Background

Density bonus law. Given California’s high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a

developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards. To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units or 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units or 24% low-income units. Additionally, specified 100% affordable housing projects may receive up to an 80% density bonus. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

- 1) *Author's statement.* "AB 87 ensures Density Bonus Law is being applied as it was intended, to increase California's affordable housing stock to meet increasing needs. Density Bonus Law is a tool that is meant to encourage the construction of units for low income Californians. However, there is currently a loophole in DBL that allows developers to gain incentives while not meaningfully contributing to affordable housing. In my district, a project application was submitted that allowed the development to exceed the city's height limit, a proposed 238-foot tower adding 139 hotel rooms and only 10 affordable units. California needs affordable housing options, and we need to

hold developers using DBL to the intent of the law, which is to increase access to affordable housing for hard-working Californians.”

- 2) *Tower at the Beach*. In recent years, as DBL has been expanded to increase its efficacy and the amount of bonuses, incentives, and concessions, it has come under increased scrutiny regarding its intersection with local planning regulations. In San Diego, a proposed 22-story project at 970 Turquoise Street serves as an interesting case study on the intersection of state and local laws. The project developer is taking advantage of the project vesting provisions established under SB 330 (Skinner, Chapter 654, Statutes of 2019), in combination with DBL, a local San Diego density bonus program, and a unique-to-San Diego hotel provision to propose a 239 foot tall building where ordinarily a 30 foot height limit would apply. The site’s 30 foot height limit was established by a 1972 local voter initiative, Proposition D, which created San Diego’s Coastal Height Limit Overlay Zone (not to be confused with California’s Coastal Zone).

The site is locally zoned to permit high-density commercial uses and limited residential development. Under this zoning, only 31 residential units would typically be allowed on the 0.67-acre site. However, by designating 15% of those base units (five units) for very-low-income households, the developer qualifies for a 50% density bonus under DBL, allowing for 16 additional market-rate units. A second 50% bonus, enabled by AB 1287 (Alvarez, Chapter 775, Statutes of 2023), which went into effect on January 1, 2024, was granted for the inclusion of another five units for moderate-income households. This added 16 more market-rate units. In total, DBL increased the project’s residential count by 32 units, in exchange for 10 affordable units, raising the unit count from 31 to 63 units. Additionally, the project leverages local incentives under San Diego’s municipal code to access 11 more residential units, through a local density bonus, because the proposal includes three-bedroom units. This brings the total number of residential units to 74.

The remaining 139 “units” included in the proposed development at 970 Turquoise Street are hotel rooms, classified as “visitor accommodations,” which are allowed by-right under San Diego’s commercial zoning for the site. The developer requested an incentive to the Floor Area Ratio (FAR) requirements of the City’s municipal code to increase the project size and financial feasibility, and applied the entirety of that FAR incentive to the “commercial” component of the site (the hotel rooms). This is how the nearly 240-foot development in a zone with a 30 foot height limit came to be.

Notably, these hotel units are not intended for short-term tourist stays. Under the version of San Diego's local municipal code in effect at the time the developer submitted its preliminary application, visitor accommodations could legally be rented for more than 30 days, essentially allowing them to be used as housing units. The developer intends to use this provision to operate the hotel rooms, which will include kitchens, as long-term market-rate rental housing. Although San Diego has since updated its development code to prohibit the long-term rental of visitor accommodations, the project is vested under the prior rules under SB 330. As such, the new restrictions on using hotel rooms for long-term rentals do not apply to 970 Turquoise.

In total, the combination of DBL, San Diego's local bonus program, and San Diego's unique provision which previously allowed for the long-term rental of hotel units, resulted in this "213 residential unit" proposal that was not contemplated under San Diego's local planning regulations, in exchange for 10 affordable units under DBL. DBL directly unlocked an extra 32 market-rate units in exchange for only 10 affordable units. San Diego's own bonus program provided an extra 11 units. Finally, the provisions of San Diego's municipal code that allowed hotel units to function as apartment units unlocked an extra 139 "units" once the FAR incentive provided under DBL was applied to the hotel use.

In order to prevent similar projects from taking advantage of state DBL, this bill provides that a local government is not required to grant a concession or incentive to a hotel or motel as part of a housing development project, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 8/27/25)

City of Carlsbad
City of Encinitas
League of California Cities
New Livable California DBA Livable California
Unite Here International Union, Afl-cio

OPPOSITION: (Verified 8/27/25)

None received

ASSEMBLY FLOOR: 75-0, 5/12/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Castillo, Sanchez, Stefani, Tangipa

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/28/25 16:49:51

**** END ****