

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 92 (Blakespear) – As Amended July 7, 2025

SENATE VOTE: 31-3

SUBJECT: Housing development: density bonuses

SUMMARY: Provides that local governments are not required to apply Density Bonus Law (DBL) concessions, incentives, or development waivers to transient lodging as part of a housing development, as specified. Specifically, **this bill**:

- 1) Provides that a city or county is not required to approve, to grant a concession or incentive requiring approval of, or to waive or reduce development standards for a hotel, motel, bed and breakfast inn, or other transient lodging, other than a residential hotel, as part of a housing development subject to DBL.
- 2) Provides that 1) above shall not apply to proposed projects that have submitted a preliminary application or an entitlement application prior to January 1, 2026.
- 3) Provides that a concession or incentive granted under DBL shall not result in a proposed project with a commercial floor area ratio (FAR) that is more than 2.5 times the premises' current allowed base zone commercial FAR.
- 4) Makes technical and conforming changes.

EXISTING LAW:

- 1) Establishes DBL, which requires local governments to grant a density bonus when an applicant for a housing development, defined as a development containing "five or more residential 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 (CID) 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. (Government Code (GOV) §65915)
- 2) Requires local governments to grant a density bonus ranging from 20% to 50% for rental developments that include a minimum percentage of units affordable to very low-, low-, or moderate-income households, with the bonus increasing on a sliding scale based on the level of affordability provided. For 100% affordable rental developments, the law provides a bonus of up to 80%, along with additional incentives such as increased height limits, reduced parking requirements, and modified development standards if the project is located within ½ mile of a major transit stop or in a low vehicle miles traveled (VMT) area. In certain cases, 100% affordable projects in qualifying areas may be allowed unlimited density. (GOV §65915)
- 3) Provides that, upon the developer's request, the local government may not require parking standards greater than the parking ratios specified in DBL. (GOV §65915)
- 4) Requires applicants to receive concessions and incentives depending on the percentage of affordable housing included in the proposed development. "Concessions and incentives" means the following:
 - a) A reduction in site development standards, or a modification of zoning code requirements, or architectural design requirements, that exceed the minimum building standards, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required, resulting in identifiable and actual cost reductions, to provide for affordable housing costs, as specified;
 - b) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; and
 - c) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as specified. (GOV §65915)
- 5) Provides that, in no case, may a local government apply any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by DBL. (GOV §65915)

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary.** This bill provides that cities and counties are not required to approve, grant concessions, or waive development standards otherwise applicable to a hotel, motel, bed and breakfast inn, or other transient lodging, other than a residential hotel, as a part of a housing development subject to DBL. This bill does not apply to proposed projects that have

submitted a preliminary application or an entitlement application prior to January 1, 2026. A concession or incentive granted under DBL shall not result in a proposed project with a commercial FAR that is more than 2.5 times the premises' current allowed base zone commercial FAR.

This bill is sponsored by the City of San Diego, Office of Mayor Todd Gloria.

- 2) **Author's Statement.** According to the author, "California's density bonus law is one of our strongest tools for expanding housing options for all Californians, but it only works if it's used in good faith. Legislators carefully constructed the law to require a fair exchange of housing for powerful overrides of zoning standards set by local communities. The 970 Turquoise Street project proposal illustrates a loophole in the law that upsets this balance. In exchange for only 10 affordable housing units, the project developer requested zoning incentives under density bonus law that would allow the project to increase the commercial floor area of the project by 1,600 percent, resulting in a 20-story, 139-room luxury hotel. As the Department of Housing and Community Development wrote, this project's application of the law, 'would not further the fundamental purpose of the law.' SB 92 will close this loophole by realigning the scope of density bonus zoning incentives with the intent of the law: promoting housing production. This is critical to preserve the public's trust in our housing laws and to make housing affordable for all Californians."
- 3) **Planning for Housing.** The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific consideration. Zoning ordinances and other development decisions must be consistent with the city or county's general plan.

- 4) **Density Bonus Law.** DBL grants certain benefits to developers who build affordable units in order to encourage greater production of affordable housing. DBL requires cities and counties to 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 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 CID for moderate-income households;

- e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons; or
- f) 20% of the total units for lower income students in a student housing development.

If a project meets one of these conditions, the city or county must allow an increase in density on a sliding scale from 20%-50% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of affordable units. A project that contains 100% affordable units can qualify for up to an 80% density bonus, or unlimited density if the proposed development is within ½ mile of a major transit stop, or located in a very low vehicle travel area.

DBL also grants certain reductions in minimum parking requirements and grants “incentives or concessions” that can be used to modify development policies that add costs or reduce the number of units a developer can build on a site. The number of incentives or concessions for which a project may be eligible is based on the percentage of affordable units contained in the project, up to a maximum of five. Incentives and concessions can vary widely based on the individual projects, but examples can include reduced fees, zoning code waivers, or reduced parking requirements. DBL also allows developer waivers of any development standards that physically prevent the developer from constructing a project at the density allowed.

- 5) **Tower at the Beach.** In recent years, the expansion of DBL, including increased bonuses, incentives, and concessions, 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’ tall building where ordinarily a 30’ height limit would apply. The site’s 30’ height limit was established by a 1972 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 CC-4-2, which permits 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. This brought 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 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). Ultimately, the developer proposed a 239’ building in a zone with a 30’ height limit, using a combination of state and local density incentives.

Notably, the hotel units proposed in the development 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 the 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.

- 6) **Related Legislation.** AB 87 (Boerner) of this legislative session would prohibit the granting of incentives or concessions under DBL to enlarge any hotel, motel, or similar uses. The bill is currently on the Senate Floor.

SB 838 (Durazo) of this legislative session would amend the definition of a “housing development project” for purposes of the Housing Accountability Act (HAA) to require that no portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging. SB 838 is pending hearing in this Committee.

- 7) **Arguments in Support.** The City of San Diego, the bill sponsor, writes in support: “I am writing to confirm our sponsorship of, and strong support for, Senate Bill 92 (SB 92), which is intended to address the misuse of Density Bonus Law, which was originally enacted to incentivize the development of affordable housing. Currently, the law lacks provisions that regulate the proportion of commercial to residential square footage in a project, which has allowed developers to exploit this gap by proposing non-residential hotel units while still claiming substantial housing incentives. SB 92 effectively closes this loophole and ensures the law is used as intended—to support the construction of residential housing.”
- 8) **Arguments in Opposition.** None on file for the current version of the bill.
- 9) **Double-Referral.** This bill is double-referred to the Assembly Housing and Community Development Committee, where it passed on a 12-0 vote on July 2, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

City of San Diego (Sponsor)
City of Alameda
City of Carlsbad
League of California Cities
State Building & Construction Trades Council of California

Opposition

None on file for the current version of the bill.

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