

- 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.
- 3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, 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.
- 4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:
- a) Zero to one bedroom — one onsite parking space.
 - b) Two to three bedrooms — one and one-half onsite parking spaces.
 - c) Four and more bedrooms — two and one-half parking spaces.
- 5) Notwithstanding (4) above, provides that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:
- a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or
 - b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- 6) Notwithstanding (4) and (5) above, provides that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.
- 7) Provides that the applicant shall receive the following number of incentives or concessions:

- a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.
- b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.
- c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.
- d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

This bill:

- 1) Defines "very low vehicle travel area" to mean an urbanized area, as defined by the Census Bureau, where the existing residential development generates vehicle miles traveled (VMT) per capita that is below 85% of either regional or city VMT per capita. "Region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization (MPO), or the entirety of the incorporated and unincorporated areas of an individual county that is not part of an MPO.
- 2) Expands the following provisions, which currently apply to housing developments within one-half mile of a major transit stop that restrict at least 80% of units for lower income households and no more than 20% of units for moderate income households, to developments that are located in an urbanized low vehicle travel area:
 - a) A height increase of up to three additional stories, or 33 feet; and
 - b) No imposition of maximum controls on density by the local government.
- 3) Requires the rents for specified units in housing development projects that receives a density bonus to be consistent with the maximum rent levels for lower income households as determined by the California Tax Credit Allocation Committee.
- 4) Provides that as part of an equity sharing agreement a local government may defer to the recapture provisions of a public funding source.
- 5) Updates the definition of maximum allowable residential density.

- 6) Revises the procedure for handling inconsistencies between allowable density between zoning ordinances and general plans to include specific plans and to allow the one with greater density to prevail rather than allowing general plans to prevail.
- 7) Changes the resident age requirement for a specified development to receive an elimination of parking minimums from the current 62 years of age or older to instead be 55 years or older.

COMMENTS:

- 1) *Author's statement.* “We have seen firsthand the essential role affordable housing has played during the pandemic, providing shelter, support, and community to some of our state’s most vulnerable groups—including seniors and veterans, teachers and firefighters, disabled persons and the far too many working families that cannot afford the rising cost of market rents. With a gap of 1.2 million homes affordable to low income households and roughly 150,000 people experiencing homelessness every day, the state must continue to strengthen policies that increase the number of affordable units being constructed.

AB 2334 promotes housing construction by expanding the California’s Density Bonus Law creating opportunities for 100% affordable housing developments to earn an enhanced density bonus in areas with low vehicle miles traveled. This bill will address the state’s affordability crisis and furthers environmental sustainability goals.”

- 2) *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 (see #2 under “Existing Law”). 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 and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. 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.

- 3) *Building smarter.* Emissions from the transportation sector, the state’s largest source of greenhouse gases (GHGs), are still on the rise despite statewide GHG emission reduction efforts and increasingly ambitious targets. According to ARB’s GHG emission inventory, transportation sector emissions have grown to 41% of California’s total emissions as of 2017. Greenhouse gas emissions from transportation are the product of two factors: the total distance the state’s vehicle fleet travels and the GHG emissions associated with that travel. California considers the first factor using the unit of vehicle miles traveled (VMT). In October of 2019, a report from Next 10 looked at transportation emission trends in 2016-2017 and found that despite the state's intention to rein in VMT and GHG emissions, both had increased.

When households are forced to move further away from city and town centers due to cost constraints, they must commute longer distances to jobs, schools, and other community services. Residents in these communities are more likely to rely on personal vehicles for daily commutes and errands, thus increasing overall VMT and GHG emissions throughout the state, and continuing to contribute to climate change.¹ To make matters worse, homes built further

¹ California Air Resources Board, *Methods to Assess Co-Benefits of California Climate Investments: Vehicle Miles Traveled* (Sacramento: California Air Resources Board, August 30,

away from existing neighborhoods and infrastructure are more likely to be in high-risk areas for fires, storms and severe weather, drought and nuisance flooding, and extreme heat.² Infill development and building denser, more walkable communities can help the state work towards its climate goals, but it requires implementing housing, land use, transportation, and climate resilience policies that work in tandem.

- 4) *Incentivizing Affordable Infill Housing*. California has taken a number of steps to promote more sustainable urban infill housing including through the use of density bonus law. Specifically, in 2019 the Legislature passed and Governor Newsom signed into law AB 1763 (Chiu, Chapter 666, Statutes of 2019), a bill that allowed for an enhanced density bonus for certain affordable housing projects located within one-half mile of a major transit stop. AB 1763 gives affordable housing projects the ability to receive unlimited density and a height increase of 33 feet or three stories. To receive this enhanced density bonus at least 80% of the units must be reserved for lower-income households and no more than 20% can be for moderate-income individuals and families.

While AB 1763 made it easier to build dense, affordable housing near transit, many parts of the state lack the level of public transportation service necessary to qualify for the enhanced density bonus the legislation allowed. However, within these areas of the state it is still important to promote housing in urbanized areas that allow residents to reduce their reliance on vehicle travel. This bill proposes to expand AB 1763's enhanced density bonus provisions to cover very low vehicle travel areas in urbanized areas where existing residential development generates VMT that is below 85% of either the region or city's per capita VMT.

In the coming months the Governor's Office of Planning and Research (OPR) will be releasing maps that indicate very low VMT areas within certain regions. Specifically, the maps will include regional VMT calculations within MPOs. Additionally, under SB 743 (Steinberg, Chapter 386, Statutes of 2013), guidelines for evaluating transportation impacts under the California Environmental Quality Act (CEQA) were updated to better assess transportation-related environmental impacts of proposed development projects. A number of California cities and counties have already produced maps of VMT in their jurisdiction under SB 743, which could be used to implement this

2017), https://ww2.arb.ca.gov/sites/default/files/classic/cc/capandtrade/auctionproceeds/carb_vehicle_miles_traveled.pdf

² Anna Cash, Karen Chapple, Nicholas Depsky, Renee Roy Elias, Melisa Krnjaic, Shazia Manji, and Honora Montano, *Climate Change and Displacement in the U.S. – A Review of the Literature* (Berkeley: Urban Displacement Project, April 2020), https://www.urbandisplacement.org/wp-content/uploads/2021/08/climate_and_displacement_-_lit_review_6.19.2020.pdf

bill. In rural areas outside of an MPO the county's VMT calculations would be used to determine what areas are considered very low VMT.

- 5) *Opposition.* The State Building and Construction Trades Council are opposed to this bill because it does not include labor standards. Community groups are opposed to reductions in parking requirements and unrelated housing laws.
- 6) *Double-referral.* This bill was also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

AB 1763 (Chiu, Chapter 666, Statutes of 2019) — revised density bonus law (DBL) to require 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 low- and moderate-income households.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8, 2022.)

SUPPORT:

- Affirmed Housing
- All Home
- AMCAL
- American Planning Association, California Chapter
- AMG & Associates, LLC
- Bridge Housing Corporation
- Brilliant Corners
- California Apartment Association
- California Association of Local Housing Finance Agencies
- California Council for Affordable Housing
- California Housing Consortium
- California Housing Partnership Corporation
- California Rural Legal Assistance Foundation
- California YIMBY
- Central City Association
- Circulate San Diego
- CivicWell
- Community Corporation of Santa Monica

Community Housingworks
CRP Affordable Housing and Community Development
Eden Housing
First Community Housing
Housing California
Integrity Housing
John Stewart Co
Jonathan Rose Companies
LA Family Housing
Linc Housing
Mercy Housing
Merritt Community Capital Corporation
Midpen Housing Corporation
Non-profit Housing Association of Northern California (NPH)
San Francisco Bay Area Planning and Urban Research Association (SPUR)
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Southern California Association of Non-profit Housing (SCANPH)
SV@home Action Fund
Terner Center for Housing Innovation At the University of California, Berkeley
The Pacific Companies
The Two Hundred
Thomas Safran & Associates
Wakeland Housing and Development Corporation
Western Center on Law & Poverty

OPPOSITION:

Catalysts for Local Control
Livable California
State Building and Construction Trades Council of CA

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