

- c) Four or more bedrooms: two and one-half parking spaces.
- 3) Provides that if a rental development is 100% affordable to lower income families then, upon the request of a developer, a city, county, or city and county, the following parking ratios shall apply for the development:
- a) If the development is located within one-half mile of a “major transit stop” and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.
 - b) If the development is a for-rent housing development for individuals who are 62 years of age or older, the ratio shall not exceed 0.5 spaces per unit.
 - c) If the development is a special needs housing development, the ratio shall not exceed 0.3 spaces per unit.
- 4) Requires applicants to 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 lower income households, at least 5% for very low income households, and at least 10% for moderate income persons and families in a common interest development.
 - b) Two incentives or concessions for projects that include at least 20% of the total units for lower income households, at least 10% for very low income households, and at least 20% for moderate income persons and families in common interest developments.
 - c) Three incentives or concessions for projects that include at least 30% of the total units for lower income households, at least 15% for very low income households, and at least 30% for moderate income persons and families in common interest developments.
- 5) Permits an applicant to submit to a local government a proposal for the specific incentives or concessions that the applicant requests, as specified, and allows the applicant to request a meeting with the local government.
- 6) Defines “concession or incentive” as:
- 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 that results in identifiable and actual cost reductions, to provide for affordable housing costs;

- b) Approval of mixed-use zoning in conjunction with the housing project, as specified; and
 - c) Other regulatory incentives or concessions proposed by the developer or the local government that results in identifiable and actual cost reductions to provide for affordable housing.
- 7) Requires a local planning agency, annually by April 1, to submit a report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community development that includes data points and updates on housing plans and approvals.

This bill:

- 1) Requires a developer to receive four incentives and concessions for projects that include the following percentage of total units: 31% for lower income households, 13% for very low income households, and 31% for moderate income households in a common interest development.
- 2) Requires a developer to receive five incentives and concessions for projects that include the follow percentage of total units: 33% for lower income households, 15% for very low income households, and 33% for moderate income households in a common interest development.
- 3) Requires a developer to receive three incentives or concession for projects that include 12% rather than 15% for very low income households.
- 4) Requires a developer to receive six instead of four incentives and concessions for projects that are within one-half mile of transit that are 100% affordable to lower income households, although 20% may be affordable to moderate income households.
- 5) Gives a local government discretion to grant additional waivers or reductions in development standards for projects that are within one-half mile of transit and are 100% affordable to lower income households, although 20% may be available to moderate income households.
- 6) Extends the density bonuses that a developer can request as follows (additions in bold, underlined, and italics):

Very Low Income Density Bonus	
Percent Very Low Income Units	Percent Density Bonus
5	20
6	<i>22.5</i>
7	<u>25</u>
8	27.5

9	30
10	32.5
11	35
<u>12</u>	<u>38.75</u>
<u>13</u>	<u>42.5</u>
<u>14</u>	<u>46.25</u>
<u>≥15</u>	<u>50</u>

Low Income Density Bonus	
Percent Low Income Units	Percent Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
<u>16</u>	<u>29</u>
17	30.5
18	32
19	33.5
20	35
<u>21</u>	<u>38.75</u>
<u>22</u>	<u>42.5</u>
<u>23</u>	<u>46.25</u>
<u>24</u>	<u>50</u>

Moderate Income Density Bonus	
Percent Moderate Income Units	Percent Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23

29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
<u>41</u>	<u>38.75</u>
<u>42</u>	<u>42.5</u>
<u>43</u>	<u>46.25</u>
<u>≥ 44</u>	<u>50</u>

- 7) Defines “natural or constructed impediments,” for the purpose of calculating the distance of a project from a major transit stop, to include, but not be limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.
- 8) Defines “located within one-half mile of a major transit stop” as any point on a proposed development for which an applicant seeks a density bonus, is within one-half mile of any point on the property of the proposed development to any point on the property on which the major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.
- 9) Reduces the amount of parking a local government can require of a developer requesting a density bonus as follows:
 - a) For two to three bedrooms from 2 spaces to 1.5 spaces; and
 - b) For four or more bedrooms 2.5 to 2 spaces.
- 10) Reduces the amount of parking a local government can require of a 100% affordable development for lower income households within one-half mile of unobstructed access to mass transit, from 0.5 spaces per unit to zero spaces per unit.
- 11) Reduces the amount of parking a local government can require of a 100% affordable rental development for seniors 62 years or older, with either paratransit service or unobstructed access within one-half mile of a fixed bus

route that operates eight times a day, from 0.5 spaces per unit to zero spaces per unit.

- 12) States that if a development contains at least 20% low income units or at least 11% very low-income units and is located within ½ mile of a major transit stop, the local government shall not impose a vehicular parking ratio that exceeds .5 spaces per unit.
- 13) Requires the annual progress report submitted by local governments to HCD to include the following data:
 - a) The number of density bonus applications received by the local government.
 - b) The number of density bonus applications approved by the local government.
 - c) Data from a sample of projects, selected by the planning agency, approved to receive a density bonus, including, but not limited to the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

COMMENTS

- 1) *Author's statement.* According to the author, "California's Density Bonus Law has been on the books for 40 years, with a goal to boost mixed-income developments, but has failed to draw enough interest from developers. The City of San Diego took steps to enhance the state's existing program, and generated significant interest to build additional affordable and market-rate housing. Communities across California can take a page from the lessons learned in San Diego. Assembly Bill 2345 will expand the Density Bonus Law to provide the same enhancements adopted by the City of San Diego, and will help alleviate California's housing shortage. With more than 40 percent of all California households spending too much of their income on housing, this bill will provide developers the incentive to build the affordable homes we urgently need in California."
- 2) *Density Bonus Law (DBL).* 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 five 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 market rate developer gets density increases on a sliding scale based 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 35% (in exchange for 11% very low-income units and 20% low-income units). The developer also negotiates additional incentives and concessions, 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) *Incentivizing more affordable housing construction.* This bill incentivizes more very low- and low-income units, as well as more moderate-income for sale units in common interest developments. It does so by extending the density formula to a maximum density of 50%, allows a developer to receive four concessions and incentives for including additional density, and reduce some parking ratios. Below is a chart demonstrating the changes to DBL in this bill:

	AB 2345 Very Low-Income (VLI)	AB 2345 Low-Income (LI)	AB 2345 Mod-Income	
Density	Units --> Density 5 --> 20 6 --> 22.5 7 --> 25 8 --> 27.5 9 --> 30 10 --> 32.5 11 --> 35 12 --> 38.75 13 --> 42.5 14 --> 46.25 15 --> 50	Units --> Density 10 --> 20 11 --> 21.5 12 --> 23 13 --> 24.5 14 --> 26 15 --> 27.5 16 --> 29 17 --> 30.5 18 --> 32 19 --> 33.5 20 --> 35 21 --> 38.75 22 --> 42.5 23 --> 46.25 24 --> 50	Units --> Density 10 --> 5 11 --> 6 12 --> 7 13 --> 8 14 --> 9 15 --> 10 16 --> 11 17 --> 12 18 --> 13 19 --> 14 20 --> 15 21 --> 16 22 --> 17 23 --> 18 24 --> 19 25 --> 20 26 --> 21 27 --> 22 28 --> 23 29 --> 4	30 --> 25 31 --> 26 32 --> 27 33 --> 28 34 --> 29 35 --> 30 36 --> 31 37 --> 32 38 --> 33 39 --> 34 40 --> 35 41 --> 38.75 42 --> 42.5 43 --> 46.25 44 --> 50
	Incentives / Concessions	* 1 incentive for: 5% VLI * 2 incentives for: 10% VLI * 3 incentives for: 12% VLI * 4 incentives for: at least 13% VLI * 5 incentives for: at least 15% VLI	* 1 incentive for: 10% LI * 2 incentives for: 20% LI * 3 incentives for: 30% LI * 4 incentvives for: at least 31% LI * 5 incentives for: at least 33% LI	* 1 incentive for: 10% Mod for-sale in CIDs * 2 incentives for: 20% Mod for sale in CIDs * 3 incentives for: 30% Mod for sale in CIDs * 4 incentives for: 31% Mod for sale in CIDs * 5 incentives for: 33% Mod for sale in CIDs
Parking near transit ratios	Base parking ratios under DBL: a) 0 to 1 BR — 1 onsite parking space b) 2 to 3 BR — 2 1.5 onsite parking spaces c) 4 and more BRs — 2.5 parking spaces	Base parking ratios under DBL: a) 0 to 1 BR — 1 onsite parking space b) 2 to 3 BR — 2 1.5 onsite parking spaces c) 4 and more BRs — 2.5 parking spaces	Base parking ratios under DBL: a) 0 to 1 BR — 1 onsite parking space b) 2 to 3 BR — 2 1.5 onsite parking spaces c) 4 and more BRs — 2.5 parking spaces	
	Projects with at least 11% VLI only have to provide .5 spaces per bedroom.	Projects with at least 20% LI only have to provide .5 spaces per bedroom.	No additional parking minimums.	
	* Any projects with 100% affordable units near transit don't need parking. * Any projects with 100% affordable units for seniors with paratransit service or near transit don't need parking. * Any project with 100% affordable units for special needs with paratransit or near transit don't need spaces.			

- 4) *Clarification to AB 1763.* In 2019, AB 1763 (Chiu, Chapter 666), created an enhanced density bonus for 100% affordable projects. If a project is within one-half mile of transit, then a developer can request no restriction on density and four incentives and concessions. A local government is explicitly prohibited from approving additional waivers or reductions in development standards to make the project feasible. In San Mateo County, the board of supervisors recently approved a project under AB 1763 and wanted to approve additional waivers but was not able to because of this prohibition. This bill would give a local government discretion to approve additional waivers and reductions in development standards if requested by the developer.
- 5) *Opposition.* A coalition of local groups including the American Planning Association – California Chapter, California State Association of Counties, League of California Cities, and Urban Counties of California are opposed unless amended to maintain the higher benefits for 100% affordable projects in current law and add a new tier for other projects with higher inclusionary units. They state that given the parking reductions there is no need to add substantive increases in other incentives and concessions to make projects pencil out that are providing substantially fewer than 100% affordable units. The California Rural Legal Assistance Foundation and Western Center on Law and Poverty oppose the bill as drafted because it does not adequately capture the value that it creates for developers and will result in less affordable housing than otherwise could be achieved. These groups note that other local governments have adopted super density bonus programs that exceed state law. If the bill were amended to remain consistent with the current DBL scale and limit concessions and incentives, their concerns would be addressed.

Other opponents share these concerns and write that this bill would further diminish local government's control over housing density and standards, and would increase traffic congestion. The Bay Area Transportation Working Group objects to the existing statutory definitions of "high quality bus corridor" and "major transit stop" and is opposing every bill, including this one, that references one or both of those definitions

- 6) *Double referral.* Due to the COVID-19 Pandemic and the unprecedented nature of the 2020 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than one committee, as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the Governance and Finance Committee. The Senate Governance and Finance Committee continues to monitor this bill.

RELATED LEGISLATION:

SB 1085 (Skinner, 2020) — makes several changes to density bonus law (DBL) and provides additional benefits to housing development projects that include moderate-income rental housing units, as specified. *This bill is pending in the Assembly Housing Committee.*

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 lower-income households.

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

POSITIONS: (Communicated to the committee before noon on Friday, July 24, 2020.)

SUPPORT:

Circulate San Diego (Co-Sponsor)
Up for Growth California (Co-Sponsor)
Bay Area Council
Bay Area Housing Advocacy Coalition
CalChamber
California Apartment Association
California Association of Realtors
California Building Industry Association
California Community Builders
California Housing Partnership Corporation
California YIMBY
Casita Coalition
Chan Zuckerberg Initiative
Council of Infill Builders
Facebook
Habitat for Humanity California
LeadingAge California
Non-profit Housing Association of Northern California
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco Housing Action Coalition
Silicon Valley Community Foundation
Silicon Valley Leadership Group
Silicon Valley at Home

Terner Center for Housing Innovation At the University of California, Berkeley
The Two Hundred
TMG Partners

OPPOSITION:

American Planning Association, California Chapter
Bay Area Transportation Working Group
California Rural Legal Assistance Foundation
California State Association of Counties
City of Redondo Beach
City of Torrance
Comstock Hills Homeowners Association
Franklin Corridor Coalition
Friends of Sunset Park
Grayburn Avenue Block Club
League of California Cities
Livable California
Shadow Hills Property Owners Association
Southeast Torrance Homeowners' Association
Sustainable Tamalmonite
Tamalpais Design Review Board
United Neighborhoods for Los Angeles (UN4LA)
Urban Counties of California
Western Center on Law & Poverty
12 Individuals

-- END --