
SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

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Author:	Wiener		
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Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Planning and zoning: transit-rich housing bonus

DIGEST: This bill requires a local jurisdiction, notwithstanding any local ordinance, general plan element, specific plan, charter, or other local law, to provide an eligible applicant with a transit-rich housing bonus if requested by the developer, as specified.

ANALYSIS:

Existing law:

- 1) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law.
- 2) 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 common interest development (CID) for moderate-income households
 - e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons.
- 3) Requires the city or county to allow an increase in density of 20% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for low-income, very low-income, or senior housing, and by 5% for moderate-income housing in a CID.

This bill, notwithstanding any local ordinance, general plan element, specific plan, charter, or other local law, requires a local jurisdiction to provide an eligible applicant with a transit-rich housing bonus if requested by the developer. Specifically, this bill:

1) Makes the following definitions:

- a) “High-quality bus corridor” means a corridor with fixed route bus service that meets all of the following criteria:
 - i) Average service of no more than 15 minutes during the three peak hours between 6 am – 10 am, inclusive, and the three peak hours between 3 pm – 7 pm, inclusive, on Monday through Friday;
 - ii) Average service intervals of no more than 20 minutes during the hours of 6 am – 10 am, inclusive, on Monday through Friday.¹
 - iii) Average intervals of no more than 30 minutes during the hours of 8 am – 10 pm, inclusive, on Saturday and Sunday.
- b) “Major transit stop” means a site containing an existing rail transit station or a ferry terminal served by either bus or rail transit.
- c) “Transit-rich housing project” means a residential development project within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

2) Requires a project from an eligible applicant — a development proponent who receives a transit-rich density bonus — to be exempt from all of the following:

- a) Maximum controls on residential density.
- b) Maximum controls on floor-area-ratio (FAR)² lower than those specified below.
- c) Minimum parking requirements, unless the project is outside of a one-quarter mile of a major transit stop, in which case the local jurisdiction may enforce a parking minimum of up to .5 parking spots per unit.
- d) Maximum building height limits that are less than those specified below, unless the height proposed by the development proponent would have a specific, adverse impact upon public health or safety, and there is no feasible

¹ There was an error in the recent amendments. The bus service should be 6 am – 10 pm, inclusive, Monday through Friday.

² Floor-Area-Ratio refers to the ratio of a building's total floor area to the size of the piece of land upon which it is built.

method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development infeasible:

- i) If the transit-rich housing project is within one-quarter mile radius of a major transit stop, the maximum height limitation shall not be less than 55 feet.
 - ii) If the transit rich housing project is within one-half mile radius of a major transit stop, but does not meet the requirements in (i) above, any maximum height limitation shall not be less than 45 feet.
 - iii) The applicant shall comply with any maximum height limitation for a transit-rich housing project that is greater than 45 or 55 feet.
- 3) Allows a development proponent to submit an application for a development to be subject to the transit-rich housing bonus if the application at the time of submittal, among other things, meets the following planning standards:
- a) A demolition permit is subject to all demolition permit controls, restrictions, and review processes enacted by the applicable local government. The applicant shall be ineligible for a transit-rich housing bonus in the following circumstances:
 - i) A residential development is proposed on any property in which existing rental units that are subject to any form of rent or price control would need to be demolished, unless expressly authorized by the local government, and
 - ii) The residential development is proposed on property in which a property owner has withdrawn their property from rent or lease within five years before an application for a transit rich housing bonus is submitted.
 - b) The development complies with any local inclusionary housing ordinance. Inclusionary ordinance includes the following:
 - i) A mandatory requirement, as a condition of the development of residential units, that the development contain a specified number of units affordable to lower income families, or alternative means to increase affordability.
 - ii) If a local government does not have a mandatory requirement as described in (i), but has a local voluntary incentive-based program that grants a range of incentives to developments that include an objective and knowable amount of onsite affordable housing.

- c) If a local government has not adopted an inclusionary ordinance and the development project has greater than 10 or more units, the development agrees to provide the applicable percentage of units awarded as onsite affordable housing as indicated below. “Units awarded” means the increase in units in the residential development permitted above the maximum allowable residential density after the transit rich housing project is granted. “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan of the applicable local government. If a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan is applicable to the project.
- i) For projects with 10-25 residential units, the development proponent shall choose between the following:
 - A) Offer 5% for very low-income households;
 - B) Offer 10% for low-income households; or
 - C) Offer 25% for moderate-income households.
 - ii) For projects with 26-50 residential units, the development shall choose between the following:
 - D) Offer 7% for very low-income households;
 - E) Offer 13% of the units for low-income households; or
 - F) Offer 30% of the units for moderate-income households.
 - iii) For projects with 51 or more residential units with fewer than one-quarter of the square footage dedicated to office use, the development proponent shall choose between the following:
 - G) Offer 11% of the units for very low-income households;
 - H) Offer 20% of the units for low-income households; or
 - I) Offer 40% of the units for moderate-income households.
 - iv) For projects with 51 or more residential units with more than one-quarter of square footage dedicated to office use, the development proponent shall offer 20% of the units for lower-income households, including 10% for very low-income households.
- d) The development proponent prepares and submits relocation assistance and benefits plan (plan) as described below.
- e) The development complies with all local objective zoning design standards that were in effect at the time the applicant submits its first application to the local government, provided that those design standards shall not result in a FAR for the development that received the bonus that is less than the following:
- i) 2.5 FAR for lots with a maximum height limit of 45 feet

- ii) 3.25 FAR for lots with a maximum height limit of 55 feet
- f) Agrees to replace units that are affordable to lower- or very low-income households if the development includes a parcel on which rental units are located, or if the units have been vacated or demolished in the five-year period preceding the application, are subject to a requirement that restricts rents to levels affordable to persons of lower or very-low income or rent or price control. “Replace” means either of the following:
- i) If the units are occupied, all eligible displaced persons shall be provided with a right to remain guarantee. For unoccupied units in a development with occupied units, the developer shall provide units of equivalent size or type or both to be made available at affordable rents or affordable housing cost to, and occupied by persons and families in the same or lower income category.
 - ii) If the units have been vacated or demolished within a five year period before the application for the transit-rich housing bonus, the development shall provide at least the same number of units in the five-year equivalent size or type, or both, as existed at the highpoint of those units in the five year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by persons and families of the same or lower income category.
- 4) Provides that an eligible applicant who receives a transit rich housing bonus may also apply for a density bonus, incentive or concession, or waiver or reduction under existing law.
- 5) Requires an eligible application to provide each resident in the development with a transit pass.
- 6) Provides that, in the event a transit-rich housing project is issued a demolition permit by a local government, the project shall comply with any state or local tenant relocation benefit and assistance program or ordinance serving residential tenants in the demolished units. If the demolition permit results in direct displacement of tenants, the local government may not issue demolition permits for rental housing units as a part of the application for a transit-rich housing project, unless the developer complies with relocation benefits and assistance and a right to remain guarantee, as follows:
- a) The development proponent prepares and submits a plan to the jurisdiction.

- b) The development proponent offers all eligible displaced persons a right to remain guarantee that is a right of first refusal for a comparable unit in the transit-rich housing project after it finishes construction and a new lease for that unit at a rate not to exceed the base rent, as specified.
- 7) Requires an eligible applicant that receives a transit-rich housing bonus to comply with the procedures and requirements in this section in providing relocation benefits and a right to remain guarantee to any eligible displaced person.
- a) “Eligible displaced person” means any person who occupies property in the development who will become displaced, or any person who moves from the property located within the boundaries of the development after an application for a transit-rich housing bonus is complete.
 - b) An eligible applicant shall inform all eligible displaced persons regarding the projected date of displacement and, periodically, shall inform those persons of any changes in the projected date of displacement.
- 8) Requires a development proponent to provide notice of the plan to all eligible displaced persons at least 30 days before submitting the plan to the local government for approval. A developer shall prepare a detailed plan and submit that plan to the applicable local government for approval to determine whether the plan complies with the requirements of this bill. The plan shall include all of the following:
- a) Projected dates of displacement, an analysis of the aggregate relocation needs of all eligible displaced persons, and a detailed explanation as to how these needs are to be met.
 - b) A written analysis of relocation housing resources, including vacancy rates of the neighborhood and surrounding areas.
 - c) A detailed description of relocation payments and a plan for disbursement.
 - d) A standard information statement to be sent to all eligible displaced persons who will be permanently displaced.
 - e) Plans for public review and comment on the development project and relocation benefits and assistance plan.
- 9) Requires a developer to provide notice of the plan to all eligible displaced persons at least 30 days before submitting the plan to the local government for approval.
- 10) Requires the eligible applicant after the applicable local government approves the plan, to do all the following:

- a) Notify all eligible displaced persons of the availability of relocation benefits and assistance, the eligibility requirements of relocation benefits and assistance, and the procedures for obtaining relocation benefits and assistance.
 - b) Determine the extent of the need of each eligible displaced person for relocation benefits and assistance.
 - c) Provide the current and continuing information on the availability, prices, and rentals of comparable sales and rental housing.
 - d) Assist each eligible displaced person to complete applications for payments and benefits and move to a comparable replacement dwelling.
 - e) Supply to each eligible displaced person information concerning federal and state housing programs.
 - f) Inform all persons who are expected to be displaced about the eviction policies to be pursued in carrying out the project, which shall be in accordance with the plan.
- 11) Requires an eligible applicant that receives a transit-rich housing bonus to make relocation payments to, or on behalf of, eligible displaced persons for all actual reasonable expenses incurred for moving and related expenses to move themselves, their family, and their personal property, and for relocation benefits.
- 12) Requires an eligible applicant, in making payments under this section, to comply with all of the following:
- a) “Moving and related expenses” includes all of the following: transportation of persons and property; storage of personal property up to 12 months; and the reasonable replacement value of property lost, stolen, or damaged in the process of moving, as specified.
 - b) An eligible displaced person who elects to self-move may submit a claim for their moving and related expenses to the eligible applicant in an amount not to exceed an acceptable low bid or an amount acceptable to the displacing entity. An eligible displaced person is not required to provide documentation of moving expenses actually incurred.
 - c) “Relocation benefits” means a payment of an amount necessary to enable that person to lease or rent a replacement dwelling for a period not to exceed 42 months, as specified.
- 13) Provides that if, on or after January 1, 2018, a local government adopts an ordinance that eliminates residential zoning designations or decreases residential zoning development capacity within an existing zoning district in

which the development is located below what was authorized on January 1, 2018, then that development shall be deemed to be consistent with any applicable requirement of this bill if it complies with zoning designations that were authorized as of January 1, 2018.

- 14) Authorizes the Department of Housing and Community Development (HCD) to, at any time, review any new or revised zoning or design standards after the operative date of the bill to determine if those local standards are consistent with the requirements of this bill. If HCD determines that those standards are inconsistent, HCD shall issue a finding of inconsistency and those standards shall be rendered invalid and unenforceable as of the date that finding is issued.
- 15) Requires the provisions in this bill to become operative on January 1, 2021. A local government may apply to HCD, no later than July 1, 2020, for a one-year, one-time extension. The application shall be reviewed and granted if the city meets specified requirements.

COMMENTS

- 1) *Purpose.* According to the author, California is in a deep housing crisis, with a housing deficit approaching four million homes. This housing shortage threatens our state's environment, economy, diversity, and quality of life, and we need an enormous amount of new housing at all income levels. Our housing shortage leads to displacement and gentrification and makes evictions more common. The status quo isn't working, and we need to do things differently. As we add new housing, it should be near public transportation and not simply sprawling out, covering up farmland, and leading to crushing commutes. Yet too many communities effectively prohibit more than a handful of people from living near transit, by zoning for low density even around major transit hubs. Small and medium-sized apartment buildings (i.e., not single-family homes and not high rises) near public transportation are an equitable, sustainable, and promising source of new housing. This bill promotes this kind of housing by setting standards for density near transit—allowing small apartment buildings that are often now banned—within a half mile of a major transit station or a quarter mile of a bus stop on a frequent bus line. Around rail stations and ferry terminals, the bill also relaxes maximum height limits up to 45 or 55 feet—that is, a maximum of four and five stories—depending on the distance from transit. This bill contains some of the strongest anti-displacement rules in state law, including an affordability requirement, demolition restrictions on rent-controlled housing and any property with an Ellis Act eviction, and tenant protections to avoid displacement.

- 2) *California's Affordable Housing Crisis*. California is currently experiencing a housing crisis. According to HCD, California needs to produce, on average, 180,000 units per year to keep up with population growth. Unfortunately, the state has under-produced since the 1980's. Even in the 2000's when there was more production, California never hit the 180,000 mark. HCD also points out that lower-income families are disproportionately impacted by the lack of affordable housing. While needs vary by region, according to the *California's Housing Future: Challenges and Opportunities* report, California statewide has a surplus of above moderate/market rate housing (about 300,000) and a shortfall of about 1.5 million units for lower-income households.
- 3) *Housing near Transit*. Research has shown that encouraging more dense housing near transit serves not only as a means of increasing ridership of public transportation to reduce greenhouse gases (GHGs), but also as a solution to our state's housing crisis. As part of California's overall strategy to combat climate change, the Legislature began the process of encouraging more transit oriented development with the passage of SB 375 (Steinberg, Chapter 728, Statutes of 2008). SB 375 is aimed at reducing the amount that people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning. The Legislature subsequently allocated 20% of the ongoing Cap and Trade Program funds to the Affordable Housing and Sustainable Communities Program, which funds land use, housing, transportation, and land preservation projects to support infill and compact development that reduce GHGs. At least half of the funds must support affordable housing projects.

A 2016 report by the McKinsey Global Institute, entitled *A Tool Kit to Close California's Housing Gap: 3.5 million Homes by 2025*, found that increasing housing demand around high-frequency public transit stations could build 1.2 – 3 million units within a half-mile radius of transit. The report notes that this new development would have to be sensitive to the character of a place, and recommends that local communities proactively rezone station areas for higher residential density to pave the way for private investments, accelerate land-use approvals, and use tax increment bonds to finance station area infrastructure.

Research has also demonstrated the positive relationship between income and vehicle miles traveled (VMT). A study by the Center for Neighborhood Technology, entitled *Income, Location Efficiency, and VMT: Affordable housing as a Climate Strategy*, created a model to isolate the relationship of income on VMT. This model found that lower-income families living near transit were likely to drive less than their wealthier neighbors. More specifically, in Metro Regions, home to two-thirds of California's population, identically-composed and located low-income households were predicted to

drive 10% less than the median, very low-income households 25% less, and extremely low-income households 33% less. By contrast, middle income households were predicted to drive 5% more and above moderate-income households 14% more. The patterns are similar for the other two Regional Contexts, although the differences are slightly reduced in Rural Areas. This research demonstrates the value of encouraging lower-income people near transit who are more likely to increase transit ridership.

- 4) *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. Density bonus law 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 density bonus law 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 density bonus law, a proposed housing development must contain a minimum percentage of affordable housing (see (2) in the "Existing Law" section). 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 density bonus law, 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, 20% density for 10% low-income units, and 5% density for 10% moderate-income units in a CID. The maximum additional density permitted is 35% (in exchange for 11% very low-income units, 20% low-income units, and 40% moderate-income units in CIDs). 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.

- 5) *Transit-rich housing bonus.* This bill creates an incentive for housing developers to build near transit by exempting developments from certain low-density requirements, including maximum controls on residential density, maximum controls on FAR, as specified, minimum parking requirements, as specified, and maximum building height limits, as specified. A developer may choose to use the benefits provided in this bill if it meets certain requirements.
- 6) *Capturing the Public Benefit.* Exemptions from certain low-density zoning standards such as those proposed in this bill will greatly increase land values as upzoning confers a monetary benefit to property owners and developers. Given the potential windfall for developers, one method of providing a public benefit while capturing or off-setting the increased land value is to require the inclusion of a certain level of affordable housing. This is a similar scheme to density bonus law, in which the developer receives increased density in exchange for the inclusion of affordable housing. The bill attempts to do so by permitting local jurisdictions with an inclusionary requirement to apply that ordinance to the project. For jurisdictions without an ordinance, this bill provides the developer with a choice of affordability requirements at different income levels based on the height of the project. (See (3)(c) in the “This Bill” section.) According to the author, this scale was based upon the percentages found in density bonus law. These inclusionary requirements however, unlike density bonus law, only apply to additional units that are allowed by the bill, not the number of units in the base zoning. Furthermore, unlike density bonus law, this bill does not provide certainty for how dense a proposed project may be and may be significantly higher than the maximum 35% allowable density bonus permitted under that law.
- 7) *Will this really create more affordable housing?* Affordable housing developers are concerned that by increasing the allowable density on land currently zoned for lower-density housing without planning for and ensuring the continued presence of lower-income households at a comparable rate to density bonus law, this bill would both be inconsistent with and undermine that law. In other words, a market rate developer is more likely to utilize this new bonus with less affordability requirements given the density exemptions than existing density bonus law. Further, affordable housing developers are concerned that this bill would actually decrease opportunities for the development of housing affordable to lower-income households. The increased value of land near transit could exacerbate the existing challenges affordable housing developers have in competing for expensive parcels in transit-rich area, making it more

difficult and costly to develop new rent-restricted affordable housing near transit.

Several bills passed by the legislature and signed by the Governor last year included affordability requirements (see the “Related Legislation” section below).

Another way to ensure affordability is to require projects eligible for the transit-rich housing bonus to be subject to a 20% requirement for housing affordable to lower-income families, with at least 10% affordable to very low-income families, or allow a higher local inclusionary ordinance to stand. This would align with the maximum requirements in density bonus law for lower-income families, provides a trade-off for the increased value, and encourage increased transit ridership.

- 8) *Does this bill provide anti-displacement protections?* Affordable housing, tenant’s rights, and equity advocates oppose this bill over concerns that it will increase displacement of low-income communities and communities of color by investors and speculators who are seeking to take advantage of the benefits of the transit-rich density bonus. To address these concerns, the author has included several provisions, including the following: requiring a developer to create a relocation assistance and benefits plan; relocation payments for eligible displaced persons for expenses incurred for moving themselves and their property; a right to return; no demolition requirements for rent controlled units; and a no net loss provision to ensure the replacement of affordable units during demolition. (See (5) – (11) in the “This Bill” section, above). Supporters of this bill, including the sponsor, argue that this bill offers amongst the strongest anti-displacement protections that exist in California state law. They state that the Right to Remain guarantee, coupled with increased production of deed-restricted affordable housing and market-rate housing, will reduce direct and indirect displacement of low-income people.

According to housing and equity advocates, right to return policies, in practice, are ineffective at actually ensuring tenants return because housing construction takes several years; once a family has moved away, it is unlikely they will actually move back. These groups note that as demonstrated with redevelopment programs, specific and enforceable rules are required to avoid gentrifying communities. Additionally, the right to return language proposed in the bill is vague and will prove difficult to enforce. For example, the bill does not limit a new owner’s ability to rescreen and deny prior tenants, nor are there provisions related to how the plan and relocation payments would be enforced, or by whom.

Density bonus law contains a no net loss provision, which requires the one to one replacement of affordable housing units that are removed during demolition. Given the bold nature of this proposal, which will result in the increased value in the parcels eligible for the transit-rich housing bonus near transit, there is an increased likelihood that market rate developers will seek to demolish existing properties and replace them with denser housing over the incentives in density bonus law. The concern is that this increased demolition will take place in lower-income neighborhoods that are more desirable for redevelopment and thus result in the displacement of lower-income families. As noted in Comment 3, the idea of density bonus law is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy; in other words, a developer must make a calculation of whether it is economical to add affordable housing in exchange for a specified amount of additional density. A concern is that the potential for additional density is far greater than in density bonus law, thus making demolition more economically feasible and more appealing. With the potential for a greater return on a demolished property, a no net loss provision will not be sufficient to prevent displacement of lower-income families.

Another solution to prevent displacement of low-income communities and communities of color most at risk of displacement is to instead include similar requirements to SB 35 (Wiener, Chapter 366, Statutes of 2018), which would prohibit a developer from using the bonus for a development that would require the demolition of rental housing or that is proposed on a site that was occupied by rental housing within the last 10 years.

- 9) *Providing greater certainty around transit.* This bill creates exemptions for developments from specified low-density zoning standards that are near certain types of transit. Unlike ferry terminals and rail stations, however, bus service is not found in fixed locations and due to varying circumstances is more likely to move around. Most transit agencies adjust their route schedules fairly regularly. The frequency of service on some routes may change every year, while others may change every five to ten years. These changes depend primarily on funding, which in some cases is regular and predictable and in other cases, irregular and unpredictable and dependent on the overall economy. Bus service may also be impacted by local demographics, both socioeconomic and geographical.

Given the potential for unpredictable bus service, which could lead to confusion for both developers seeking to use the benefits of this bill, as well as local governments for planning purposes, one solution is to remove bus service from

the bill. The bill could instead require the Office of Planning and Research to conduct a study of the impacts of extending the zoning changes enacted by this bill to apply to areas around bus stops, including segregate bus rapid transit and make recommendations to the Legislature.

- 10) *Impacts to cities and local planning.* This bill, in an effort to encourage denser housing near transit, would override specific planning decisions typically held by local jurisdictions. Local planning efforts through the general plan and zoning ordinances provide an opportunity to anticipate necessary government services such as water, sewer, utilities, schools, and traffic flow, as well as encourage public engagement.

The impacts of this bill could be significant in some areas of the state. For example, while the bill has been amended recently to apply to specified bus service routes, the *LA Times* reported that the prior version of the bill would apply to 190,000 parcels in neighborhoods zoned for single-family homes in Los Angeles. This amounts to about 50% of the city's single-family homes, according to the Department of City Planning.³ The San Francisco Planning Department estimated that the prior version of the bill to apply to 96% of the city.⁴ This bill allows a developer to choose, among other things, the height and density of a planned project that is eligible using the bonus available under this bill. Planners and localities are concerned that they will not be able to plan for or study the impacts of increased populations and demand for services as new developments are constructed.

To allow jurisdictions time to update their local planning documents and conduct studies as necessary, this bill would not take effect until January 1, 2021 with an option for the locality to extend the delay one additional year upon application to HCD.

Last year, the Legislature passed SB 2 (Atkins, Chapter 364), which will provide roughly \$125 million in funds for local jurisdictions to update local planning documents, such as general plans and zoning ordinances. HCD anticipates releasing the first notice of funding availability next spring and awarding funds later in the year. Given that it can take 5 years or more for a local jurisdiction to update its general plan, and the author's intent is to give locals time to update their planning documents, one solution is to delay the implementation of this bill for five years.

³ Plan to Dramatically Increase Development Would Transform Some L.A. Neighborhoods, *Los Angeles Times*, March 25, 2018, available at: <http://www.latimes.com/local/lanow/la-me-ln-housing-bill-transit-20180325-htmlstory.html>

⁴ San Francisco Planning Commission Cringes at Wiener's Transit-Housing bill. *SF Curbed*. March 16, 2018, available at: <https://sf.curbed.com/2018/3/16/17130904/san-francisco-planning-commission-wiener-housing-transit>

- 11) *What are the alternatives?* Some local jurisdictions are increasing access to denser affordable housing around transit. For example, the Los Angeles voters approved Measure JJJ and the Transit-Oriented Communities Program, which links increased density and reduced parking to affordable housing and replacement housing requirements. The South and Southeast Los Angeles Community Plan incorporate significant density increases along transit with affordable housing requirements and no net loss provisions. Local governments, as well as affordable housing and equity advocates, are concerned that this bill could undermine the application of these policies, which align with the author's stated intent.

Many organizations writing in opposition to this bill support the author's stated purpose of encouraging denser housing near transit with affordable housing requirements, but argue this approach overrides local planning authority and fails to take into account regional differences. Here are two alternative approaches:

- a) *Work within existing density bonus law.* This could be done by providing greater density increases in exchange for higher percentages of affordable units on lower-density parcels around transit in localities that have not already adopted a plan or program to accomplish a similar goal.
- b) *Set state-minimums for density and affordability requirements on vacant and redevelopment properties.* This would allow each jurisdiction to determine how best to meet these minimums and would require allow for regional and geographic differences around the state.

Another solution is to allow interested stakeholders, including local governments, housing and equity partners, and developers, to convene a working group in the fall to create an alternative approach that achieves the author's stated goals.

- 12) *Support.* Supporters of the bill note that the root of California's housing crisis is a failure to build homes and that this bill would permit millions of new homes at varying income levels to be built and assist with the housing crisis. They further contend that the effects of the bill, combined with strong anti-displacement protections, will encourage more low-income families in high-opportunity neighborhoods by opening up exclusionary neighborhoods to nonprofit developers. This will greatly benefit children in their educational performance in the long run. Supporters note that the bill will decrease the costs to build houses, make housing less expensive overall for Californians,

encourage homeownership, decrease regulatory barriers, and reduce approval processes.

- 13) *Opposition*. Those writing in opposition are concerned about overriding the local planning process. This bill conflicts with locally-driven transit-oriented plans, fails to consider the interaction with existing plans and density bonus law, and undermines the intent of state policies requiring community engagement in land use planning, especially in disadvantaged communities. One unintended consequence would be overturning plans that allow for limited residential uses in unincorporated communities outside of urban centers that have low-frequency transit service. The opposition is also concerned that the bill will override environmental justice elements, which are required to identify disadvantaged communities and that this bill would fuel opposition to future transit development.
- 14) *Double-referral*. This bill is double-referred to the Governance and Finance Committee.

RELATED LEGISLATION:

AB 73 (Chiu, Chapter 371, Statutes of 2018) — Allowed a city or county to create a housing sustainability district to complete upfront zoning and environmental review in order to receive incentive payments for development projects that are consistent with the district's ordinance. This measure required that at least 20% of the residential units constructed within the housing sustainability district be affordable to very low-, low-, and moderate-income households.

AB 1568 (Bloom, Chapter 562, Statutes of 2018) — This bill authorizes an enhanced infrastructure financing district (EIFD) to utilize local sales and use tax revenue for affordable housing on infill sites. The infrastructure financing plan requires that at least 20% of any new housing units constructed be affordable to persons and families of low or moderate income with at least 6% of the new units affordable to very income households and at least 9% of the new units affordable to persons or families of low income.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their RHNA numbers. In jurisdictions that fail to meet their above moderate RHNA numbers or both their above moderate and lower income numbers, streamlined projects must dedicate a minimum of 10% of the total number of units to housing affordable to lower-income households. In jurisdictions that fail to meet their lower-income targets, streamlined projects must dedicate at least 50%.

SB 540 (Roth, Chapter 369, Statutes of 2018) — authorized a city or county to establish a Workforce Housing Opportunity Zone (WHOZ) by preparing an environmental impact report (EIR) to identify and mitigate impacts from establishing a WHOZ and adopting a specific plan. A local government must approve a housing development within the WHOZ that meets specified criteria, and no project-level EIR or a negative environmental declaration would be required on a development within a WHOZ that meets specified criteria. At least 30% of the total units constructed or substantially rehabilitated will be sold or rented to persons and families of moderate income, or persons and families of middle income. At least 15% of the total units shall be sold or rented to lower-income households and at least 5% will be restricted for very low-income households.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 11, 2018.)

SUPPORT:

California YIMBY (sponsor)
Bay Area Council
Berkeley Design Advocates
Bridge Housing
California Apartment Association
California Asian Pacific Islander Chamber of Commerce
California Association of Realtors
California Building Industry Association
California Chamber of Commerce
California Housing Alliance
California Renters Legal Advocacy and Education Fund
Climate Resolve
Council of Infill Builders
Environment California
Habitat for Humanity California
Holland Partner Group
Mayor John Bauters, City of Emeryville
Natural Resources Defense Council
Orange County Business Council
Peninsula Young Democrats
San Francisco Planning and Urban Research

Silicon Valley Leadership Group
Silicon Valley Organization
State Board of Equalization Chairwoman Fiona Ma
Stand Up California
United Democrats Club
Valley Industry and Commerce Association
129 Individuals

OPPOSITION:

Acton Town Council
Affordable Housing Network of Santa Clara County
AIDS Healthcare Foundation
Alliance for Community Transit – Los Angeles
Alliance of Californians for Community Empowerment
American Planning Association California Chapter
Asian Americans Advancing Justice - California
Asian Pacific Environmental Network
Asian Pacific Policy and Planning Council
Atwater Village Neighborhood Council
Barbary Coast Neighborhood Association
Bend the Arc: A Jewish Partnership for Justice
California Contract Cities Association
California Housing Consortium
California Reinvestment Coalition
California Rural Legal Assistance Foundation
California State Association of Counties
Causa Justa: Just Cause
Central American Resource Center
Central Valley Division of League of California Cities
Chinatown Community Development Center
Citizen Marin
City of Agoura Hills
City of Albany
City of Bell
City of Bellflower
City of Beverly Hills
City of Brentwood
City of Burbank
City of Calabasas
City of Ceres
City of Chino Hills

City of Claremont
City of Colton
City of Compton
City of Costa Mesa
City of Covina
City of Culver City
City of Cypress
City of Delano
City of Diamond Bar
City of Downey
City of Duarte
City of Dublin
City of El Cajon
City of El Segundo
City of Foster City
City of Fountain Valley
City of Fremont
City of Glendale
City of Glendora
City of Gustine
City of Hanford
City of Hercules
City of Hesperia
City of Huntington Park
City of Indian Wells
City of Kingsburg
City of La Canada Flintridge
City of La Habra Heights
City of La Mirada
City of La Verne
City of Laguna Beach
City of Lakeport
City of Lakewood
City of Livermore
City of Los Banos
City of Malibu
City of Manhattan Beach
City of Manteca
City of Mill Valley
City of Mission Viejo
City of Monterey Park
City of Napa

City of Newark
City of Newport Beach
City of Norwalk
City of Novato
City of Oakdale
City of Orinda
City of Palmdale
City of Palo Alto
City of Pasadena
City of Pico Rivera
City of Piedmont
City of Pinole
City of Placentia
City of Pleasanton
City of Rancho Cucamonga
City of Rancho Palos Verdes
City of Redondo Beach
City of Reedley
City of Riverbank
City of Rocklin
City of Rosemead
City of San Bruno
City of San Marcos
City of San Marino
City of San Rafael
City of Sausalito
City of Scotts Valley
City of Signal Hill
City of Stanton
City of Sunnyvale
City of Torrance
City of Union City
City of Vallejo
City of Visalia
City of Waterford
City of West Covina
City of Whittier
City of Yorba Linda
Coalition for Economic Survival
Community Coalition
Community Development Technologies
Community Health Councils

Council of Community Housing Organizations
Corbett Heights Neighbors
Cow Hollow Association
Del Rey Neighborhood Council
Dolores Heights Improvement Club
East Los Angeles Community Corporation
Enterprise Community Partners
Esperanza Community Housing Corporation
Fair Rents for Redwood City
Gateway Cities Council of Governments
Genesis
Golden Gate Valley Neighborhood Association
Haight Ashbury Neighborhood Council
Hercules Mayor Chris Kelley
Housing California
InnerCity Struggle
Inquilinos Unidos
Investing in Place
Jobs to Move America
Koreatown Immigrant Workers Alliance
LA Voice PICO
League of California Cities
Legislative Committee of the Marin County Council of Mayors and
Councilmembers
Linda Vista Planning Group
Little Tokyo Service Center
Livable California
Los Angeles Black Worker Center
Los Angeles City Council President Herb J. Wesson, Jr.
Los Angeles Community Action Network
Los Angeles County Bicycle Coalition
Los Angeles County of the League of California Cities
Los Angeles Forward
Los Angeles Neighborhood Land Trust
Manteca Chamber of Commerce
Marina Community Association
Mission Economic Development Agency
Move LA
Mountain View Tenants Coalition
Multicultural Communities for Mobility
Noe Neighborhood Council
North Area Neighborhood Development Council

North Bay Organizing Project
Norwalk Councilmember Jennifer Perez
P.I.C.O. Neighborhood Council
Pacific Palisades Community Council
Palisades Preservation Association
Physicians for Social Responsibility – Los Angeles
Public Advocates Inc.
Restaurant Opportunities Center of Los Angeles
Rural County Representatives of California
San Francisco Tenants Union
Santa Monicans for Renter’s Rights
Save the Hill
Senior and Disability Action
SF Ocean Edge
Sherman Oaks Homeowners Association
Sierra Business Council
Sierra Club California
South Bay Cities Council of Governments
Southeast Asian Community Alliance
St. John’s Well Child and Family Center
Stand Up for San Francisco
State Building and Construction Trades Council, AFL-CIO
Strategic Actions for a Just Economy
Strategic Concepts in Organizing and Policy Education
T.R.U.S.T South LA
Tenants Together
Thai Community Development Center
Town of Corte Madera
Town of Danville
Town of Ross
Town of San Anselmo
Town of Windsor
UNITE HERE, AFL-CIO
United Neighbors in Defense Against Displacement
Urban Counties of California
Villa Park Councilmember Robert Pitts
Western Center on Law & Poverty
Women Organizing Resources, Knowledge and Services
99 Individuals

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