

SB-50 Planning and zoning: housing development: equitable communities incentive.(2019-2020)

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 50

**Introduced by Senator Wiener
(Coauthors: Senators Caballero, Hueso,
Moorlach, and Skinner)
(Coauthors: Assembly Members Burke,
Kalra, Kiley, Low, Robert Rivas, Ting,
and Wicks)**

December 03, 2018

An act to add Chapter 4.35 (commencing with Section 65918.50) to Division 1 of Title 7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as introduced, Wiener. Planning and zoning: housing development: equitable communities incentive.

Existing law, known as the Density Bonus Law, requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would require a city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under existing law. The bill would require that a residential development eligible for an equitable communities incentive receive waivers from maximum controls on density and automobile parking requirements greater than 0.5 parking spots per unit, up to 3 additional incentives or concessions under the Density Bonus Law, and specified additional waivers if the residential development is located within a $\frac{1}{2}$ -mile or $\frac{1}{4}$ -mile radius of a major transit stop, as defined. The bill would authorize a local government to modify or expand the terms of an equitable communities incentive, provided that the equitable communities incentive is consistent with these provisions.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. The bill would also declare the intent of the Legislature to delay implementation of this bill in sensitive communities, as defined, until July 1, 2020, as provided.

By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Chapter 4.35 (commencing with Section 65918.50) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.35. Equitable Communities Incentives 65918.50.

For purposes of this chapter:

(a) “Affordable” means available at affordable rent or affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate incomes, as specified in context, and subject to a recorded affordability restriction for at least 55 years.

(b) “Development proponent” means an applicant who submits an application for an equitable communities incentive pursuant to this chapter.

(c) “Eligible applicant” means a development proponent who receives an equitable communities incentive.

(d) “FAR” means floor area ratio.

(e) “High-quality bus corridor” means a corridor with fixed route bus service that meets all of the following criteria:

(1) It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.

(2) It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through Friday.

(3) It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

(f) “Job-rich housing project” means a residential development within an area identified by the Department of Housing and Community Development and the Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs. A residential development shall be deemed to be within an area designated as job-rich if both of the following apply:

(1) All parcels within the project have no more than 25 percent of their area outside of the job-rich area.

(2) No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the job-rich area.

(g) “Local government” means a city, including a charter city, a county, or a city and county.

(h) “Major transit stop” means a site containing an existing rail transit station or a ferry terminal served by either bus or rail transit service.

(i) “Residential development” means a project with at least two-thirds of the square footage of the development designated for residential use.

(j) “Sensitive community” means an area identified by the Department of Housing and Community Development, in consultation with local community-based organizations in each region, as an area vulnerable to displacement pressures, based on indicators such as percentage of tenant households living at, or under, the poverty line relative to the region.

(k) “Tenant” means a person residing in any of the following:

(1) Residential real property rented by the person under a long-term lease.

(2) A single-room occupancy unit.

(3) An accessory dwelling unit that is not subject to, or does not have a valid permit in accordance with, an ordinance adopted by a local agency pursuant to Section 65852.22.

(4) A residential motel.

(5) Any other type of residential property that is not owned by the person or a member of the person’s household, for which the person or a member of the person’s household provides payments on a regular schedule in exchange for the right to occupy the residential property.

(l) “Transit-rich housing project” means a residential development the parcels of which are all 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. A project shall be deemed to be 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 if both of the following apply:

(1) All parcels within the project have no more than 25 percent of their area outside of 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) No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of 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.

65918.51.

(a) A local government shall, upon request of a development proponent, grant an equitable communities incentive, as specified in Section 65918.53, when the development proponent seeks and agrees to construct a residential development that satisfies the requirements specified in Section 65918.52.

(b) It is the intent of the Legislature that, absent exceptional circumstances, actions taken by a local legislative body that increase residential density not undermine the equitable communities incentive program established by this chapter.

65918.52.

In order to be eligible for an equitable communities incentive pursuant to this chapter, a residential development shall meet all of the following criteria:

(a) The residential development is either a job-rich housing project or transit-rich housing project.

(b) The residential development is located on a site that, at the time of application, is zoned to allow housing as an underlying use in the zone, including, but not limited to, a residential, mixed-use, or commercial zone, as defined and allowed by the local government.

(c) (1) If the local government has adopted an inclusionary housing ordinance requiring that the development include a certain number of units affordable to households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code, and that ordinance requires that a new development include levels of affordable housing in excess of the requirements specified in paragraph (2), the residential development complies with that ordinance.

(2) If the local government has not adopted an inclusionary housing ordinance, as described in paragraph (1), and the residential development includes ____ or more residential units, the residential development includes onsite affordable housing for households with incomes that do not exceed the limits for extremely low income, very low income, and low income specified in Sections 50093, 50105, and 50106 of the Health and Safety Code. It is the intent of the Legislature to require that any development of ____ or more residential units receiving an equitable communities incentive pursuant to this chapter include housing affordable to low, very low or extremely low income households, which, for projects with low or very low income units, are no less than the number of onsite units affordable to low or very low income households that would be required pursuant to subdivision (f) of Section 65915 for a development receiving a density bonus of 35 percent.

(d) The site does not contain, or has not contained, either of the following:

(1) Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the application for a development permit.

(2) A parcel or parcels on which an owner of residential real property has exercised his or her rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years prior to the date that the development proponent submits an application pursuant to this chapter.

(e) The residential development complies with all applicable labor, construction employment, and wage standards otherwise required by law and any other generally applicable requirement regarding the approval of a development project, including, but not limited to, the local government's conditional use or other discretionary permit approval process, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or a streamlined approval process that includes labor protections.

(f) The residential development complies with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements.

(g) The equitable communities incentive shall not be used to undermine the economic feasibility of delivering low-income housing under the state density bonus program or a local implementation of the state density bonus program, or any locally adopted program that puts conditions on new development applications on the basis of receiving a zone change or general plan amendment in exchange for benefits such as increased affordable housing, local hire, or payment of prevailing wages.

65918.53.

(a) A residential development that meets the criteria specified in Section 65918.52 shall receive, upon request, an equitable communities incentive as follows:

(1) Any eligible applicant shall receive the following:

(A) A waiver from maximum controls on density.

(B) A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.

(C) Up to three incentives and concessions pursuant to subdivision (d) of Section 65915.

(2) An eligible applicant proposing a residential development that is located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop and includes no less than ____ percent affordable housing units shall receive, in addition to the incentives specified in paragraph (1), waivers from all of the following:

(A) Maximum height requirements less than 45 feet.

(B) Maximum FAR requirements less than 2.5.

(C) Notwithstanding subparagraph (B) of paragraph (1), any maximum automobile parking requirement.

(3) An eligible applicant proposing a residential development that is located within a one-quarter mile radius of a major transit and includes no less than ____ percent affordable housing units shall receive, in addition to the incentives specified in paragraph (1), waivers from all of the following:

(A) Maximum height requirements less than 55 feet.

(B) Maximum FAR requirements less than 3.25.

(C) Notwithstanding subparagraph (B) of paragraph (1), any maximum automobile parking requirement.

(4) Notwithstanding any other law, for purposes of calculating any additional incentive or concession in accordance with Section 65915, the number of units in the residential development after applying the equitable communities incentive received pursuant to this chapter shall be used as the base density for calculating the incentive or concession under that section.

(5) An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 may submit an application for streamlined, ministerial approval in accordance with that section.

(b) The local government may modify or expand the terms of an equitable communities incentive provided pursuant to this chapter, provided that the equitable communities incentive is consistent with, and meets the minimum standards specified in, this chapter.

65918.54.

The Legislature finds and declares that this chapter addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

65918.55.

(a) It is the intent of the Legislature that implementation of this chapter be delayed in sensitive communities until July 1, 2020.

(b) It is further the intent of the Legislature to enact legislation that does all of the following:

(1) Between January 1, 2020, and _____, allows a local government, in lieu of the requirements of this chapter, to opt for a community-led planning process aimed toward increasing residential density and multifamily housing choices near transit stops.

(2) Encourages sensitive communities to opt for a community-led planning process at the neighborhood level to develop zoning and other policies that encourage multifamily housing development at a range of income levels to meet unmet needs, protect vulnerable residents from displacement, and address other locally identified priorities.

(3) Sets minimum performance standards for community plans, such as minimum overall residential development capacity and the minimum affordability standards set forth in this chapter.

(4) Automatically applies the provisions of this chapter on January 1, 2025, to sensitive communities that do not have adopted community plans that meet the minimum standards described in paragraph (3), whether those plans were adopted prior to or after enactment of this chapter.

SEC. 2.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.