Date of Hearing: July 2, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
SB 92 (Blakespear) – As Amended June 23, 2025

SENATE VOTE: 31-3

SUBJECT: Housing development: density bonuses

SUMMARY: Limits the ability of development proponents to apply concessions, incentives, and development waivers under Density Bonus Law (DBL) to nonresidential uses, including hotel uses, as specified. Specifically, **this bill**:

1) Provides that DBL does not require a local government to approve, grant a concession or incentive requiring approval of, or waive or reduce development standards for a hotel, motel, bed and breakfast inn, or other transient lodging, other than a residential hotel, component of a mixed-use housing development project.

2) Specifies that a concession or incentive granted under DBL shall not result in a proposed project with a commercial floor area ratio (FAR) that is more than 2.5 times the premises' current allowed base zone commercial FAR.

EXISTING LAW:

1) Establishes DBL, which requires local governments to grant a density bonus when an applicant for a housing development, defined as a development containing "five or more residential units, including mixed-use developments," seeks and agrees to construct a project that will contain at least one of the following:

    a) 10% of the total units of a housing development for lower-income households;

    b) 5% of the total units of a housing development for very low-income households;

    c) A senior citizen housing development or mobile home park;

    d) 10% of the units in a common interest development (CID) for moderate-income households;

    e) 10% of the total units for transitional foster youth, veterans, or persons experiencing homelessness;

    f) 20% of the total units for lower-income students in a student housing development; or

    g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households. (Government Code (GOV) 65915)

2) Requires local governments to grant a density bonus ranging from 20% to 50% for rental developments that include a minimum percentage of units affordable to very low-, low-, or moderate-income households, with the bonus increasing on a sliding scale based on the level

of affordability provided. For 100% affordable rental developments, the law provides a bonus of up to 80%, along with additional incentives such as increased height limits, reduced parking requirements, and modified development standards if the project is located within ½ mile of a major transit stop or in a low vehicle miles traveled (VMT) area. In certain cases, 100% affordable projects in qualifying areas may be allowed unlimited density. (GOV 65915)

3) Provides that, upon the developer's request, the local government may not require parking standards greater than the parking ratios specified in DBL. (GOV 65915)

4) Requires applicants to receive concessions and incentives depending on the percentage of affordable housing included in the proposed development. "Concessions and incentives" means the following:

   a) A reduction in site development standards, or a modification of zoning code requirements, or architectural design requirements, that exceed the minimum building standards, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required, resulting in identifiable and actual cost reductions, to provide for affordable housing costs, as specified;

   b) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; and

   c) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as specified. (GOV 65915)

5) Provides that, in no case, may a local government apply any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by DBL. (GOV 65915)

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "California's density bonus law is one of our strongest tools for expanding housing options for all Californians, but it only works if it's used in good faith. Legislators carefully constructed the law to require a fair exchange of housing for powerful overrides of zoning standards set by local communities. The 970 Turquoise Street project proposal illustrates a loophole in the law that upsets this balance. In exchange for only 10 affordable housing units, the project developer requested zoning incentives under density bonus law that would allow the project to increase the commercial floor area of the project by 1,600 percent, resulting in a 20-story, 139-room luxury hotel. As the Department of Housing and Community Development wrote, this project's application of the law, "Would not further the fundamental purpose of the law." SB 92 will close this loophole by realigning the scope of density bonus zoning incentives with the intent of the law: promoting housing production. This is

critical to preserve the public's trust in our housing laws and to make housing affordable for all Californians."

California's Housing Crisis: California's housing crisis is a half-century in the making. [1] After decades of underproduction, supply is far behind need, and housing and rental costs are soaring. As a result, millions of Californians must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation, directly impacting the quality of life in the state. [2] One in three households in the state doesn't earn enough money to meet their basic needs. [3] In 2024, over 187,000 Californians experienced homelessness on a given night.[4]

To meet this housing need, HCD determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA) cycle. By contrast, housing production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing per year.[5]

The state's housing crisis is not equally experienced by all Californians. Testimony by the UC Berkeley Terner Center to this Committee showed that the impacts of the housing crisis are significantly more severe for lower-income individuals, single-earner households, Black and Latino Californians, younger and older populations, and those who reside in, or aspire to live and work in, the state's highest-cost regions.[6]

Density Bonus Law: California's DBL, originally enacted in 1979, is a key state policy tool aimed at addressing the financial challenges of building affordable housing, particularly in in high-cost markets. Given the state's elevated land and construction costs, the private market struggles to deliver housing that is affordable to low- and moderate-income households without public subsidy. An analysis by the California Housing Partnership compares the cost of market rate developments with the median cost of developing affordable rental homes. In the four regions analyzed, the study found that the cost of developing one unit of affordable housing ranged from approximately $480,000 to $713,000, while the cost of developing one unit of market rate housing in the state ranged from approximately $508,000 to $637,000.[7] The increased cost for the deed-restricted affordable units can be attributed, in part, to the difficulty associated with assembling a capital stack for affordable housing development, the complex regulations that these affordable units must comply with, and the added cost of labor requirements tied to certain public funding sources used by affordable housing developers.

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[1] California Department of Housing and Community Development, *A Home for Every Californian*: 2022 Statewide Housing Plan. March 2022, https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136
[2] IBID.
[3] IBID.
[4] U.S. Department of Housing and Urban Development, Point in Time Counts. https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html
[5] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml
[6] UC Berkeley Terner Center Testimony by Ben Metcalf, Managing Director, at the State Housing Production Legislation: Actions, Outcomes, and Opportunities Informational Hearing, February 12, 2025
[7] Mark Stivers, *Affordable Housing Compares Favorably to Market-Rate Housing From a Cost Perspective*, California Housing Partnership, January 2024: https://chpc.net/affordable-housing-compares-favorably-to-market-rate-housing-from-a-cost-perspective/#:~:text=It%20turns%20out%20that%20costs,market%2Drate%20developments%20do%20not.

DBL seeks to close some of the financial gaps associated with building affordable housing by allowing developers to build more units than local zoning laws typically permit, known as a "density bonus," in exchange for reserving a certain percentage of the housing units as affordable. This increased density enables the fixed costs of development to be spread across more units, thereby helping to offset the lower returns from the affordable units and reducing the need for direct public subsidy. Under current law, any housing development proposing five or more units, including mixed-income developments, can take advantage of the provisions of DBL.

To qualify for a density bonus, a project must include one of several affordability options, including providing units for lower-income, very low-income, or moderate-income households, or targeting specific populations such as seniors, transition-age foster youth, disabled veterans, or lower-income college students. All affordable units built under DBL must be deed-restricted for at least 55 years to ensure long-term affordability. Local governments are required to adopt a local ordinance implementing DBL. However, even if a local government has not formally adopted a density bonus ordinance, it is still legally obligated to comply with state law and grant the bonuses and concessions to qualifying projects as requested by developers.

Under DBL, when a mixed-income housing development includes a minimum percentage of affordable units, such as 5% very low-income or 10% lower-income, it becomes eligible for a density bonus for additional market-rate units starting at 20%, with the potential to increase up to 50%, depending on the proportion of affordable units provided. Fully affordable projects can qualify for up to an 80% density bonus, or unlimited density if located within ½ mile of a major transit stop, or in a very low vehicle travel area.

In addition to the density bonus, eligible projects are entitled to receive between one and five regulatory incentives or concessions, depending on the share of affordable housing units provided. These may include modifications to development standards such as reduced setbacks, increased building height, higher floor area ratios (FAR), or reduced parking requirements, when those changes result in actual and identifiable cost savings that help support the affordable units. Because DBL applies to mixed-use developments, a project may also receive incentives or concessions for increased intensity or expanded nonresidential uses if doing so would reduce the overall cost of development. Projects can also request other zoning or regulatory modifications that reduce development costs, and local governments must grant those incentives, unless they can make specific findings to deny them as narrowly defined in state law. Developers maintain that these incentives and concessions are critical for making affordable housing projects financially feasible.

In practice, DBL plays a critical role in the state's housing strategy, both by reducing development costs and by increasing the overall supply of housing at all income levels, particularly in communities that might otherwise see little affordable housing development. By leveraging regulatory flexibility instead of direct public funding, DBL offers a cost-effective mechanism to stimulate the production of both mixed-income and 100% affordable housing projects throughout California.

Tower at the Beach: In recent years, as DBL has been expanded to increase its efficacy and the amount of bonuses, incentives, and concessions, it has come under increased scrutiny regarding its intersection with local planning regulations. In San Diego, a proposed 22-story project at 970 Turquoise Street serves as an interesting case study on the intersection of state and local laws.

The project developer is taking advantage of the project vesting provisions established under SB 330 (Skinner), Chapter 654, Statutes of 2019, in combination with DBL, a local San Diego density bonus program, and a unique-to-San Diego hotel provision to propose a 239' tall building where ordinarily a 30' height limit would apply. The site's 30' height limit was established by a 1972 voter initiative, Proposition D, which created San Diego's Coastal Height Limit Overlay Zone (not to be confused with California's Coastal Zone).

The site is locally zoned CC-4-2, which permits high-density commercial uses and limited residential development. Under this zoning, only 31 residential units would typically be allowed on the 0.67-acre site. However, by designating 15% of those base units (five units) for very-low-income households, the developer qualifies for a 50% density bonus under DBL, allowing for 16 additional market-rate units. A second 50% bonus, enabled by AB 1287 (Alvarez), Chapter 775, Statutes of 2023, which went into effect on January 1, 2024, was granted for the inclusion of another five units for moderate-income households. This added 16 more market-rate units. In total, DBL increased the project's residential count by 32 units, in exchange for 10 affordable units, raising the unit count from 31 to 63 units. Additionally, the project leverages local incentives under San Diego's municipal code to access 11 more residential units, through a local density bonus, because the proposal includes three-bedroom units. This brings the total number of residential units to 74.

The remaining 139 "units" included in the proposed development at 970 Turquoise Street are hotel rooms, classified as "visitor accommodations," which are allowed by-right under San Diego's commercial zoning for the site. The developer requested an incentive to the Floor Area Ratio (FAR) requirements of the City's municipal code to increase the project size and financial feasibility, and applied the entirety of that FAR incentive to the "commercial" component of the site (the hotel rooms). This is how the nearly 240' development in a zone with a 30' height limit came to be.

Notably, these hotel units are not intended for short-term tourist stays. Under the version of San Diego's local municipal code in effect at the time the developer submitted its preliminary application, visitor accommodations could legally be rented for more than 30 days, essentially allowing them to be used as housing units. The developer intends to use this provision to operate the hotel rooms, which will include kitchens, as long-term market-rate rental housing. Although San Diego has since updated its development code to prohibit the long-term rental of visitor accommodations, the project is vested under the prior rules under SB 330. As such, the new restrictions on using hotel rooms for long-term rentals do not apply to 970 Turquoise.

In total, the combination of DBL, San Diego's local bonus program, and San Diego's unique provision which previously allowed for the long-term rental of hotel units, resulted in this "213 residential unit" proposal that was not contemplated under San Diego's local planning regulations, in exchange for 10 affordable units under DBL. DBL directly unlocked an extra 32 market-rate units in exchange for the 10 affordable units. San Diego's own bonus program provided an extra 11 units. Finally, the provisions of San Diego's municipal code that allowed hotel units to function as apartment units unlocked an extra 139 "units" once the FAR incentive provided under DBL was applied to the hotel use.

Reining in DBL: In direct response to the aforementioned development proposal at 970 Turquoise Street in San Diego, two bills were introduced this legislative session by San Diego members in order to limit the applicability of DBL. This bill is one of those. This bill would

amend DBL so that local governments are not required to approve incentives, concessions, or waivers for hotel, motel, bed and breakfast inn, or other transient lodging components, in mixed-use projects using DBL. It further provides that a concession or incentive shall not result in a proposed project with a commercial floor area ratio that is greater than two and a half times the premises' current allowed base zone commercial floor area ratio.

In doing so, this bill seeks to strike a balance between maintaining flexibility for the developer and ensuring that developments like the Turquoise Street project do not use DBL to drastically increase the scale of the commercial component of a mixed-use development without that benefit having a clear nexus to offsetting the cost of affordable housing development. DBL has been heavily amended in recent legislative history, and this bill proposes a modest reassessment of the law to maintain its stated purpose of providing additional density, incentives, and concessions to offset the cost of increased affordable housing development. The Turquoise Street development faced robust local opposition, which could have led to more drastic legislative proposals to undermine the efficacy of DBL. This relatively balanced proposal could help to safeguard DBL as a valuable tool for affordable housing development, without negative externalities at the local level.

Maintaining the Project Pipeline: Large-scale housing developments take time to conceptualize, and plans may be in the works long before a preliminary application or application for entitlement is filed with the local government. To implement the policy change proposed in this bill without impacting the immediate housing production pipeline, the Committee may wish to consider whether it is appropriate to add a prospective clause to this bill, so that proposed projects that have submitted a preliminary application, or an entitlement application, before the effective date of this bill can still be processed under the rules in place at the time those applications were filed.

Arguments in Support: The City of San Diego, the bill sponsor, writes in support: "I am writing to confirm our sponsorship of, and strong support for, Senate Bill 92 (SB 92), which is intended to address the misuse of Density Bonus Law, which was originally enacted to incentivize the development of affordable housing. Currently, the law lacks provisions that regulate the proportion of commercial to residential square footage in a project, which has allowed developers to exploit this gap by proposing non-residential hotel units while still claiming substantial housing incentives. SB 92 effectively closes this loophole and ensures the law is used as intended—to support the construction of residential housing."

Arguments in Opposition: None on file for current bill version.

Committee Amendments: In order to ensure that housing development proposals currently in the pipeline are not impacted by this change to DBL, the Committee may wish to consider the following amendment:

(l) (1) A concession or incentive shall not result in a proposed project with a commercial floor area ratio that is greater than two and a half times the premises' current allowed base zone commercial floor area ratio. ***This provision shall not apply to proposed projects that have submitted a preliminary application or an entitlement application prior to January 1, 2026.***

Related Legislation:

AB 87 (Boerner) of this legislative session would prohibit the granting of incentives or concessions under DBL to enlarge any hotel, motel, or similar uses. The bill is currently in the Senate Local Government Committee.

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

Double-Referred: This bill was also referred to the Committee on Local Government, where it shall be heard should it pass out of this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

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

Opposition

None on file for the current version of the bill.

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