SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 295	**Hearing Date:**	7/18/2017
Author:	Eggman		
Version:	6/27/2017 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Mikel Shybut		

SUBJECT: Skydiving or sport parachuting operations

DIGEST: This bill requires the owners and operators of a skydiving operation to ensure that the tandem jumper in charge and the parachute packer are in compliance with all federal laws relating to parachute safety and certification.

ANALYSIS:

Existing law:

1) Establishes the State Aeronautics Act to further and protect the public interest in aeronautics and aeronautical progress and grants the Department of Transportation (Caltrans) the authority to adopt, administer, and enforce rules and regulations of the act.

2) Defines aeronautics to include, among other things, the operation, construction, repair, or maintenance of aircraft and the repair, packing, and maintenance of parachutes.

3) Provides that it is unlawful for any person to operate an aircraft in a careless or reckless manner so as to endanger the life or property of another and declares that a court should consider federal statutes or regulations to determine whether the plane was operated carelessly or recklessly.

4) Limits violations of any provision or rules of the State Aeronautics Act, except the provision on reckless operation of an aircraft, to penalties of no more than $1,000 or six months imprisonment, or both.

This bill:

1) Requires, to the extent allowed by federal law, the owners and operators of a skydiving or sport parachuting operation to ensure that the parachutist in

command of a tandem jump and the parachute rigger responsible for packing the parachute are in compliance with all federal laws relating to parachute safety and certification.

2) Exempts violations of (1) from the punishment limitations set forth in Public Utilities Code (PUC) Section 21019 of a fine of not more than $1,000, imprisonment of not more than six months, or by both that fine and imprisonment for general violations of the State Aeronautics Act.

COMMENTS:

1) *Purpose.* According to the author, "In August 2016, Tyler Turner, of Los Banos, went to the Skydive Lodi Parachute Center with his mother and friends to celebrate a birthday. The jump was a gift from his mother. Turner was paired in a tandem jump with instructor Yong Kwon. Under conditions that are still being investigated, their parachute did not open, and both Turner and his instructor, Kwon, were killed. It was later discovered that the instructor was not properly certified. These were the 12th and 13th deaths recorded at the site since 2000; there have been many other incidents that were not fatal. Skydiving and parachuting is an admittedly dangerous sport that entails risk. Federal regulation of aircraft, drop-zones, and instructors is meant to minimize the risk to those who choose to jump out of a plane, who place a great deal of trust in their instructors and the sites where they operate. While [the United States Parachute Association (USPA)] has taken steps to address the improper training, the fact still remains that the tandem instructor in this most recent incident was not certified, and the operator should have the responsibility to the public for ensuring that instructors are qualified. Though jumpers sign waivers, a requirement in state code would formally establish this duty."

2) *Tyler's law.* This bill is named after the 18-year-old young man, Tyler Turner, who died after both his main and backup parachutes failed to properly deploy while tandem skydiving in Lodi last year. According to the USPA, a non-profit that licenses tandem skydiving instructors in the U.S., Tyler's instructor Yong Kwon, who also died in the fall, was not certified to tandem skydive. Further, Kwon's instructor had been operating with a suspended rating, conducting unauthorized courses, and forging signatures on submitted post-course rating applications. Another instructor was identified who had also been improperly teaching courses. The USPA estimates that about 140 tandem instructors and candidates may have been affected by these instructors, not receiving proper training or being improperly certified. The USPA is requiring about 120 tandem instructors or candidates to take a newly developed refresher course and suspended the ratings of about 12 others who may have attended courses by

instructors with suspended ratings, requiring them to undergo a full retraining.

3) *Regulations*. The Federal Aviation Administration (FAA), under the U.S. Department of Transportation, regulates components of skydiving. The FAA's rules and guidelines for skydiving are outlined in the Federal Aviation Regulations (FAR) under the Code of Federal Regulations (CFR). The FAR establishes requirements for certifications and ratings along with flight and parachute operating rules. The FAA certifies pilots, mechanics, air traffic controllers, and parachute riggers and requires approval data for aircraft and parachutes. Upon a skydiving violation, the FAA can fine the pilot, parachute rigger, or jumper, and can suspend or revoke the certification of the pilots and parachute riggers. The FAA works closely with the guidelines published by the USPA, however, they rely on a system of voluntary self-regulation within the skydiving community.

4) *Tandem regulations and certification.* According to the FAR, there are a number of requirements that one must meet in order to be in command of a tandem skydive. The FAR requires such a parachutist to have a minimum of three years of documented experience in parachuting, at least 500 freefall parachute jumps, hold a master parachute license issued by an FAA-recognized organization (such as the USPA), has successfully completed an approved tandem instructor course, and has been certified as being properly trained on the specific tandem parachute system in use. Further, the parachutist in command must brief the passenger parachutist before boarding the aircraft and the parachute must be packed by a certified parachute rigger, the person in command making the next jump, or a person under direct supervision of a certified rigger.

5) *State law to ensure compliance with federal law.* This bill provides that the owners and operators of a skydiving operation have a duty to ensure compliance with federal law for both the parachutist in command of a tandem jump and the parachute rigger. This bill also exempts the compliance provision from the statutory fine and prison time restrictions set for general violations of the State Aeronautics Act, which are capped at $1,000, six months in prison, or both fine and imprisonment. This puts the compliance provision in line with current law on reckless operation of an aircraft, which is also exempt from the fine and imprisonment caps. It remains unclear who exactly would enforce the certification compliance requirements, as the bill doesn't specify, though Caltrans is generally responsible for enforcing regulations in the State Aeronautics Act. While enforcement may be unclear, this bill likely increases the liability of the owner or operator of a skydiving facility for accidents involving uncertified instructors. Writing in support, the Consumer Attorneys

of California state that though tandem instructors and parachute packers are federally required to be certified, it is the operators who have the responsibility of assuring their instructors are qualified.

Assembly votes:
Floor: 76 – 0
Communications and Conveyance: 12 – 0

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

POSITIONS: (Communicated to the committee before noon on Wednesday, July 12, 2017.)

SUPPORT:

Consumer Attorneys of California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 915	**Hearing Date:**	7/18/2017
Author:	Ting		
Version:	5/2/2017 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Planning and zoning: density bonus: affordable housing ordinances: City and County of San Francisco

DIGEST: This bill requires the City and County of San Francisco, if it has adopted an inclusionary ordinance, to apply that ordinance to the total number of housing units in the development, including any additional housing units granted pursuant to density bonus law, unless the city and county exempts those additional housing units from the ordinance.

ANALYSIS:

Existing law:

1) Requires all local governments to adopt an ordinance that specifies how they will implement state density bonus law and requires local governments 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 any one of the following:

    a) 10% of the total units for lower-income households
    b) 5% of the total units of a housing for very low-income households
    c) A senior citizen housing development or mobilehome park
    d) 10% of the units in a common-interest development (CID) for moderate-income households

2) Requires that the applicant agree to, and the local government to ensure, continued affordability of all low- and very low-income units that qualified the applicant for the density bonus for at least 55 years

3) Requires the local government 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.

4) Requires that the density bonus for low-, very low-, and moderate-income units increase incrementally according a set formula.

5) Requires cities and counties to provide an applicant for a density bonus with concessions and incentives based on the number of below market-rate units included in the project as follows:

   a) One incentive or concession, if the project includes at least 10% of the total units for low-income households, 5% for very low-income households, or 10% for moderate-income households in a CID

   b) Two incentives or concessions, if the project includes at least 20% of the total units for low-income households, 10% for very low-income households, or 20% for moderate-income households in a CID

   c) Three incentives or concessions, if the project includes at least 30% of the total units for low-income households, 15% for very low-income households, or 30% for moderate-income households in a CID

6) Specifies that concessions or incentives may include the following:

   a) A reduction in site development standards;
   b) A modification of zoning code requirements or architectural design requirements that exceed the minimum building standards — including a reduction in setbacks, square footage requirements, or parking requirements — that results in identifiable, financially sufficient, and actual cost reductions;
   c) 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 such nonresidential uses are compatible with the project;
   d) Other regulatory incentives or concessions proposed by the developer or the city or county that result in identifiable cost reductions.

This bill:

1) Requires the City and County of San Francisco, if it has adopted an inclusionary ordinance, to apply that ordinance to the total number of housing units in the development, including any additional housing units granted pursuant to density bonus law, unless the city and county exempts those additional housing units from the ordinance.

2) Provides that (1) does not apply to an applicant seeking a density bonus for a proposed housing development if his application was submitted to, or processed by, the City and County of San Francisco before January 1, 2018.

COMMENTS:

1) *Purpose of the bill.* According to the author, "housing costs are skyrocketing in San Francisco. We need to flip the switch so that local planning leads to more affordable housing by default. By linking housing density with affordability, we will get more affordable housing to ease the exodus of working families from our neighborhoods. No community does this and it's time for us to show the state how it's done."

2) *Density Bonus Law.* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density bonus is a tool to encourage the production of affordable housing by market rate developers, although it is used by developers building 100% affordable developments as well. In return for inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density and concessions and incentives. The increase in density and concessions and incentives are intended to financially support the inclusion of the affordable units. Additionally, 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 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.

   All local governments are required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus on top of the a city's zoned density in exchange for including extremely low-, very low-, low-, and moderate-income housing. Failure to adopt an ordinance does not relieve a local government from complying with state density bonus law. 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.

3) *Latinos Unidos del Valle De Napa y Solano v. County of Napa.* In 2013, the First District Court of Appeal heard a suit brought by low income farmworkers in Napa County (*Latinos Unidos Del Valle De Napa Y Solano v. County of Napa*, 217 Cal. App. 4th 1160 (2013)). The lawsuit attacked the validity of the housing element, the County's density bonus ordinance and the discrimination against affordable housing and minorities allegedly caused by the County's zoning laws. The Court of Appeal reversed in part the trial court judgment and held that the county's density bonus ordinance unlawfully conflicts with the state Density Bonus Law.

   In 2010, Napa County adopted an ordinance implementing state Density Bonus Law, which required local governments to grant a density bonus and certain incentives and concessions when a developer agrees to include a certain percentage of affordable units. At the same time, Napa also adopted an inclusionary housing ordinance that required up to 20% of new dwelling units in a residential development project to be made available at prices affordable to moderate-income households. However, the inclusionary ordinance stated that affordable units that qualify a project for a density bonus must be provided in addition to the affordable units required by the inclusionary ordinance. So, for example, if a developer includes 10% low- income units to qualify for a density bonus (as required by state law), this would not count towards the percentage of affordable units required by the inclusionary ordinance. The court, looking at previous case law and legislative history, agreed with plaintiffs that Napa County's density bonus ordinance was invalid in that it would require a developer to go above and beyond state law requirements to obtain a density bonus. The court noted that "[a] handful of local jurisdictions have argued since 1979 that the density bonus law does not apply until inclusionary requirements have been met. The vast majority of cities, counties and experts take the opposite view, as do I." The county's ordinance, which failed to credit affordable units satisfying the county's inclusionary requirement toward satisfying the density bonus requirements, failed to comply with state law.

4) *Impact on Density Bonus Law.* Density bonus law prohibits a city from requiring a developer to include more affordable units in a development than is required by statute in return for the increase in density. The intent of the law is to provide a strong enough incentive in the form of a density bonus and incentives and concessions to encourage developers to use the law and build the affordable units. Most jurisdictions take density bonus law into account in their planning ordinances including their inclusionary ordinance, if they have one.

The majority of cities interpreted the law prior to *Latinos Unidos Del Valle De Napa Y Solano v. County of Napa*, 217 Cal. App. 4th 1160 (2013) to require them to count the affordable housing units required under an inclusionary ordinance toward satisfying density bonus requirements.

This bill will require developers to provide more affordable units than is required under density bonus law to receive the density bonus, unless the city takes steps to exempt those units. In cities without inclusionary ordinances, this bill would not affect density bonus projects. In cities with inclusionary ordinances, this bill could have the effect of increasing the percentages of affordable housing for density bonus projects, unless the city exempts those additional units from the ordinance.

For example: Under density bonus law, if a developer agrees to make 11% of the units in a 100 unit development restricted to very-low income, the developer gets a density bonus of 35%. The total number of units in the development becomes 135. The developer provides 11 very-low income affordable units and, in return, gets 35 extra market rate units to help offset the cost of the very-low income units. If the local jurisdiction has an inclusionary ordinance of 25%, this ordinance would only apply to the 100 units in the base project, requiring the developer to provide a total of 25 affordable units. If this bill were to pass, the 25% inclusionary ordinance would apply to the final project, which includes the extra density bonus units (135 units). As a result, the developer would be required to provide 34 affordable units (25% of 135).

5) *Impacts on housing developments*. It's unclear what impact this would have on developers' willingness to use density bonus. The end result could lead to a reduction in the number of affordable units the state is able to gain from private developers. In addition, cities who do not wish to encourage housing production, density, and the inclusion of affordable housing in mixed-income developments could impose on-site inclusionary requirements or in lieu inclusionary fees specifically on units awarded as a density bonus that could make construction of units economically infeasible. This bill is also structured as an opt-out, so any city with an inclusionary ordinance would have to amend their ordinance to explicitly exempt density bonus units even though they have no issue with the status quo. **The committee may wish to consider that the unintended consequences of the passage of this bill could result in the production of less housing, particularly for the lower income households that most desperately need it. The committee may also wish to consider adding a sunset in 3 years and require City and County to provide a report to HCD and the Legislature within 6 months following the sunset that**

provides an analysis of the number of housing developments approved prior to and after the passage of this bill.

6) *Opposition.* A coalition including the California Apartment Association, California Association of Realtors, California Building Industry Association, California Chamber of Commerce, – California Renters Legal Advocacy and Education Fund, San Francisco Housing Action Coalition, and Yes in My Backyard Tenant Action San Francisco writes that this bill "imposes even more below-market rate unit requirements on the density bonus granted to the developer, thereby completely defeating the purpose of the density bonus. A density bonus is a way to ensure that a development will 'pencil' once completed and rents are calculated. By forcing an additional number of affordable units in exchange for a density bonus, AB 915 renders the density bonus useless and makes new housing developments financially infeasible. AB 915 will increase the cost of housing by make projects financially infeasible, delaying them, and increasing their costs. In a city like San Francisco, which already has the highest inclusionary requirements, many proposed housing developments are only financially feasible if they receive density bonus units under the current law program."

RELATED LEGISLATION:

AB 2501 (Bloom, Chapter 578, Statutes of 2016) — made a number of changes to density bonus law, including clarifying the processing of a density bonus application.

Assembly Votes

Floor: 41-28
L.Gov: 6-3
H&CD: 5-2

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

POSITIONS: (Communicated to the committee before noon on Wednesday, July 12, 2017.)

SUPPORT:

Council of Community Housing Organizations
Homeownership San Francisco
Livable City
Mission Economic Development Agency

PODER
San Francisco Mayor, Ed Lee
Santa Monicans for Renters' Rights
Senior and Disability Action
Tenants Together

OPPOSITION:

Bay Area Renters Federation
California Apartment Association
California Association of Realtors
California Building Industry Association
California Chamber of Commerce
California Renters Legal Advocacy and Education Fund
East Bay Forward
Grow the Richmond
Progress Noe
San Francisco Housing Action Coalition
Tech for Housing
YIMBY Action

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1568	**Hearing Date:**	7/18/2017
Author:	Bloom		
Version:	5/26/2017 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Enhanced infrastructure financing districts

DIGEST: This bill allows an enhanced infrastructure financing district (EIFD) to allocate sales taxes for affordable housing on infill sites.

ANALYSIS:

Existing law:

1) Defines "infill site" to mean a site in an urbanized area that meets either of the following criteria:

   a) The site has not been previously developed for urban uses and both of the following apply:

      i) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 % of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 % of the site adjoins parcels that have previously been developed for qualified urban uses; and,

      ii) No parcel within the site has been created within the past 10 years, unless the parcel was created as a result of the plan of a redevelopment agency.

   b) The site has been previously developed for qualified urban uses.

2) Allows a legislative body of a city or county to designate one or more proposed EIFDs pursuant to EIFD law, and requires the establishment of a district to be instituted by the adoption of a resolution of intention to establish the proposed district, which includes the following:

a) State that an EIFD is proposed and describe the boundaries of the proposed district, as specified;

b) State the type of public facilities and development proposed to be financed or assisted by the EIFD in accordance with existing EIFD law;

c) State the need for the EIFD and the goals the district proposes to achieve;

d) State the incremental property tax revenue from the city or county and some or all affected taxing entities within the EIFD, if approved by resolution of the affected agencies, may be used to finance these activities; and,

e) Fix a time and place for a public hearing on the proposal.

3) Requires, after the resolution of intention to establish a district, the designated official to prepare a proposed infrastructure financing plan, which shall be consistent with the general plan of the city or county within which the district is located. Requires the plan to include a financing section, containing the following information:

a) A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue, as specified;

b) A projection of the amount of tax revenues expected to be received by the district for each year during which the district will receive incremental tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year;

c) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt;

d) A limit on the total number of tax dollars that may be allocated in the district pursuant to the plan; and,

e) A date on which the district will cease to exist, by which time all tax allocation to the district will end. Requires the date to not be more than 45 years from the date on which the issuance of bonds is approved or the issuance of a loan is approved by the governing board of a local agency.

This bill:

1) Establishes the Neighborhood Infill and Transit Improvements Act, or NIFTI, in EIFD law and allows the infrastructure financing plan to contain a provision for the receipt of any increase of the total receipts of local sales and use taxes and attribute those taxes to the NIFTI if the following apply:
    a) The area financed is an infill site.
    b) The infrastructure financing plan provides for the allocation of at least 20% of the funds to be used to finance projects for the acquisition, construction, or rehabilitation of very low-, low-, and moderate-income housing.
    c) At least 20% of the new construction in the area shall be financed with funds for affordable housing, as follows:
        i) At least 6% of any new production be very low-income units.
        ii) At least 9% of any new production be low-income units
        iii) At least 5% affordable housing units for low-incomes at any income level, including but not limited to low- and very low-income units.
    d) The use of the revenues derived from local sales and use tax imposed pursuant to the infrastructure financing plan is consistent with the purposes for which that tax is imposed.
    e) The boundaries of the EIFD are coterminous with the locality that established that district.

Requires the increase in the total receipt of local sales and use tax received by a locality, resulting from the imposition of a sales and use tax, will be allocated to an EIFD.

COMMENTS:

1) *Purpose of the bill.* According to the author, "Local governments have been without a reliable financing mechanism to invest in economically depressed, transit-rich areas since the demise of redevelopment agencies in 2011. Many of these neighborhoods lack sufficient resources to spur private investment, economic development and affordable housing. In addition, many communities do not have sufficient property tax increment to form EIFDs to self-fund their needed infrastructure costs. NIFTI provides local jurisdictions with the authority to finance infrastructure and affordable housing using new sales and use taxes in addition to property tax increment within qualifying districts. NIFTI will usher in new opportunities for local governments and the private sector to work together to revitalize communities, create good jobs, and build

affordable homes while meeting the state's landmark greenhouse gas reduction targets."

2) *Enhanced Infrastructure Financing Districts (EIFDs).* Cities and counties can create Infrastructure Financing Districts (IFDs) and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs can divert property tax increment revenues. However, IFDs can't divert property tax increment revenues from schools (SB 308, Seymour, 1990). In 2014, in response to RDAs' dissolution, legislators enacted SB 628 (Beall) to allow local officials to create Enhanced Infrastructure Financing Districts (EIFDs), which augment the tax increment financing powers that are available to local government under the IFD statutes. City or county officials can create an EIFD, which is governed by a public finance authority, to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community.

3) *Another local tool for housing.* This bill permits localities to establish NIFTI districts, which finance infrastructure and affordable housing using increases in local sales and use taxes in addition to incremental property taxes. The NIFTI districts must be located in qualified infill locations, meeting the SB 375 definition of infill site, and 20% of the revenue is required to be spent on affordable housing.

4) *Sales Tax Increment.* This bill authorizes EIFDs to capture sales and use or transaction and use tax revenue to be used for its purposes as long as it is consistent with the purposes in which the tax was proposed. However, the fundamental premise behind property tax increment (used previously to fund RDA activities) is that investment in a blighted area will increase property values, and thus the "increment" of that increase would go to the RDA while other jurisdictions continue to get the same property tax amount (or "base"), over the life of the RDA. In this manner there was, with RDAs, a nexus between the use of property tax increment for the RDA's purposes. Moreover, sales tax revenue naturally fluctuates much more than property tax revenue. Allowing agencies to dedicate sales tax revenue from their general fund could significantly affect an agency's ability to budget. Additionally, the current process to calculate property tax increment is contained in the Revenue and Taxation Code; however, no such method exists for calculating sales and use or transactions and use tax increment. **The author agreed to take amendments in the prior committee, and due to time constraints was not able to process them. The amendments agreed to in the Senate Governance and Finance**

committee remove references to the collection of sales tax increment and instead allow cities and counties to transfer sales tax revenue to the EIFD generally.

5) Incoming! This bill was heard on July 12, 2017 in the Senate Governance and Finance Committee and received a vote of 5-1.

RELATED LEGISLATION:

AB 1598 (Mullin, 2017) — would permit a locality to establish an affordable housing authority (AHA) to fund affordable housing. *This bill is pending in the Senate Appropriations Committee.*

Assembly Votes
Floor: 53-23
Appr: 17-0
L.Gov: 5-3

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

POSITIONS: (Communicated to the committee before noon on Wednesday, July 12, 2017.)

SUPPORT:

American Planning Association, California Chapter
California League of Conservation Voters
California Rural Legal Assistance Foundation
California State Association of Counties
Council of Infill Builders
Housing California
Natural Resources Defense Council
Planning and Conservation League
Public Advocates
SF Council of Community Housing Organizations
State Building and Construction Trades Council
Western Center on Law & Poverty

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1637	**Hearing Date:**	7/18/2017
Author:	Gloria		
Version:	7/10/2017 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Local housing authority: middle-income housing projects

DIGEST: This bill authorizes local housing authorities to provide gap financing for development of projects in which at least 40% of housing units are designated as low-income and at least 10% of units are designated as middle-income.

ANALYSIS:

Existing federal law establishes public housing to provide decent and safe rental housing for eligible low-income families, seniors, and individuals with disabilities. The U.S. Department of Housing and Urban Development (HUD) administers federal aid to local housing authorities that manage public housing for low-income residents at affordable rents.

Housing authorities determine an applicant's eligibility for public housing based on income limits developed by HUD. HUD sets income limits as a percentage of the median income for the county or metropolitan area (area median income, or AMI) as follows:

a) Extremely low-income: 0-30% AMI
b) Very low-income: 31-50% AMI
c) Low-income: 51-80% AMI
d) Moderate income: 81-120% AMI
e) Above moderate income: 121% AMI and above

Existing state law requires a housing authority to rent or lease only to low-income individuals and "to provide safe and sanitary accommodations to the occupants, without overcrowding." At least 20% of all units in housing projects assisted by a housing authority must be available for occupancy on a priority basis to low-income individuals (up to 80% AMI).

This bill:

1) Authorizes a housing authority to develop and provide gap financing for a middle-income housing project, defined as one in which at least 40% of units are designated low-income (up to 80% AMI) and at least 10% of units are designated middle-income (up to 150% AMI).

2) Prohibits a housing authority from using public funds to provide gap financing for market-rate units.

3) Defines "gap financing" as a loan from a housing authority to fund the remaining cost of development of a middle-income housing project after other funds have been secured, including but not limited to bond funds, tax credits, conventional loans, or other private and public lands.

COMMENTS:

1) *Purpose.* The author states that California's longstanding housing crisis has led the state to become one of the least affordable places to live in the nation. According to the state Department of Housing and Community Development, California families are facing a harder time finding a place to live now than at any other time in history. More than 1.5 million California households spend over half of their monthly income on rent. This has led to overcrowding and housing instability. This bill takes steps to promote production of middle-income housing and relieve housing crisis pressure by authorizing a housing authority to develop and fund middle-income housing projects.

2) *No changes to existing restrictions on public funds.* This bill allows local housing authorities to provide assistance for middle-income housing up to 150% AMI. Since most federal and state housing funds are capped at 80% AMI, local authorities would not be able to use those funds for purposes of this bill. Instead, the sponsor of this bill, the City of San Diego, envisions funding from "unrestricted" sources such as grants, donations, and local general fund monies. For example, the San Diego Housing Commission derives revenue from the net operating income from the 160 properties the commission owns and operates.

3) *Taking funds from low-income units?* By allowing local housing authorities to help finance units of up to 150% AMI, this bill potentially decreases funding for low-income housing units. To help address this concern, this bill requires at least 40% of the units in a development funded by a housing authority to be

low-income (80% AMI). The author states that this bill will allow housing authorities to leverage funding to help build projects that may not otherwise get built because of funding issues, and to spur growth of not only low-income units, but of "missing" middle-income units. The City of San Diego recently established a Transit Oriented Development Fund "to supplement traditional sources of gap financing for the creation and preservation of affordable housing." This bill would enable the San Diego Housing Commission to help provide financing to achieve these goals.

4) *Setting a new precedent?* Historically, the primary purpose of public housing authorities has been to serve low- and very low-income households. The author notes that existing state law authorizes local housing authorities to finance and develop single-family housing up to 150% AMI, and to own mixed-income housing developments in certain circumstances. However, existing law does not specifically authorize local housing authorities to lend money to help finance the higher end portions of these developments. This bill would explicitly allow local authorities to help finance middle-income housing in addition to low-income housing.

Assembly Votes
Floor: 76-0
H&CD: 7-0

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

POSITIONS: (Communicated to the committee before noon on Wednesday, July 12, 2017)

SUPPORT:

City of San Diego (sponsor)
California Association of Housing Authorities
California Council for Affordable Housing
California Association of Realtors
San Diego Housing Commission
San Diego Regional Chamber of Commerce

OPPOSITION:

None received.

-- END --