



## SB 50 (Wiener) Equitable Communities Incentive

### Key Definitions

**"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.

**"High-quality bus corridor"** means a corridor with fixed route bus service that meets all of the following criteria:

- 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.
- 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.
- 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.

**"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:

- All parcels within the project have no more than 25 percent of their area outside of the job-rich area.
- No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the job-rich area.

**"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:

- 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.
- 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.

**"Local government"** means a city, including a charter city, a county, or a city and county.

**"Major transit stop"** means a site containing an existing rail transit station or a ferry terminal served by either bus or rail transit service.

**"Residential development"** means a project with at least two-thirds of the square footage of the development designated for residential use.

**“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.

### Overview

SB 5 (Wiener) is a developer opt-in bill that would require a city, county, or city and county to grant an equitable communities incentive to eligible development proponents. In order to be eligible for an equitable communities incentive, a residential development shall meet all of the following criteria:

- The residential development is either a job-rich housing project or transit-rich housing project.
- 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.
- The residential development must comply with a locally adopted inclusionary housing ordinance, if it requires more than 20% for low-income and 11% for very low-income households.
- States that it is the intent of the Legislature to require that any development of \_\_\_\_ or more residential units receiving an equitable communities incentive 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 (20% for low-income and 11% for very low-income households.)
- The site does not contain, or has not contained, either of the following:
  - 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.
  - A parcel or parcels on which an owner of residential real property has exercised his or her rights under the Ellis Act, 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.
- 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, or a streamlined approval process that includes labor protections.
- 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.
- 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.

A residential development that meets the criteria specified above shall receive, upon request, an equitable communities incentive as follows:

- **“Job-rich housing project”** shall receive the following:
  - A waiver from maximum controls on density.
  - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.
  - Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
  
- **“Transit-rich housing project”** shall receive the following:

A residential development within **one-quarter mile radius of a stop on a high-quality bus corridor**:

  - A waiver from maximum controls on density.
  - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.
  - Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

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 an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- A waiver from maximum height requirements less than 45 feet.
- A waiver from maximum FAR requirements less than 2.5.
- A waiver from maximum automobile parking requirement.

A residential development that is located within a **one-quarter mile radius of a major transit stop** and includes no less than \_\_\_\_ percent affordable housing units shall receive an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to

any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

- A waiver from maximum height requirements less than 55 feet.
- A waiver from maximum FAR requirements less than 3.25.
- A waiver from any maximum automobile parking requirement.

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 (Density Bonus law).

An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 (SB 35 streamlining) may submit an application for streamlined, ministerial approval in accordance with that section.

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

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.

“Sensitive community” delayed implementation - It is the intent of the Legislature that implementation of SB 5 be delayed in sensitive communities until July 1, 2020.

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

- 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.
- 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.
- Sets minimum performance standards for community plans, such as minimum overall residential development capacity and the minimum affordability standards set forth.
- 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 whether those plans were adopted prior to or after enactment of this chapter.

### Key Elements

- Annual state commitment: Up to \$2 billion annually. Can be suspended when the Legislature uses the “Raining Day Fund.”
- Opt-in: No taxing entities are forced to participate.
- Schools will be made whole. No impact to Prop 98.
- Set aside for facility enhancement payments to school entities.
- Rural city/county set aside.
- Prevailing wage and skilled and trained workforce requirements.
- Strong state oversight.

### Overview:

The Program creates a local-state partnership to reduce poverty and advance other state priorities financed, in part, by property tax increment. A city, county, or JPA, that has a financial commitment to a project, is eligible for a portion of the school share of property tax if the project contains one or more of the following:

- Housing development plans that propose construction of workforce and affordable housing, and support the construction of housing for all-income ranges consistent with adopted housing elements. 50% of the funds provided shall be used to construct workforce and affordable housing.
- Transit-oriented development in priority locations that maximize density and transit use, and contribute to the reduction of vehicle miles traveled and greenhouse gas emissions.
- Infill development and equity by rehabilitating, maintaining and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, street, water, sewer, and other essential services, particularly in underserved areas, and to preserving cultural and historic resources.
- Promoting strong neighborhoods through supporting of local community planning and engagement efforts to revitalize and restore neighborhoods, including repairing infrastructure and parks, rehabilitating and building housing, promoting public-private partnerships, supporting small businesses and job growth for affected residents.

20% of the overall funding for the program shall be set aside for counties with populations of less than 200,000.

### State Oversight

Creates the Sustainable Investment Incentive Committee which shall be comprised of the following:

- The Chair of the Strategic Growth Council.
- The Chair of the State Infrastructure and Economic Development Bank.
- The Chair of California Workforce Investment Board.
- Director of the California Housing and Community Development Department.
- Two people appointed by the Speaker of the Assembly.
- Two people appointed by the Senate Rules Committee.
- One public member appointed by the Governor that has a background in land use planning, local government, or community development or revitalization.

The Committee shall review and approve or disapprove proposed projects.

Each applicant that has received financing pursuant to the program for any fiscal year shall provide a report to the Committee. The Committee shall also provide an annual report to the Joint Legislative Budget Committee.

