

Summary of Senate Bill 50

This following is an overview of Senate Bill 50, the More Housing Opportunity, Mobility, Equity, and Stability (“HOMES”) Act of 2019 (“SB 50”) as amended March 11, 2019. A copy of the legislation and information on its status is available [here](#).

I. SB 50 Provides Development Incentives in “Job-rich” and “Transit-rich” Areas

For qualifying residential development projects in “job rich” and “transit rich” areas SB 50 would require a local government to grant an “equitable communities incentive” allowing more housing development than authorized by local General Plan and zoning standards. Qualifying projects would need to meet these requirements:

- the project must be located in a “job-rich” housing area or a “transit-rich” area;
- the project must be located on a site already zoned to allow housing as an underlying use in the zone (i.e., residential, mixed-use, or commercial);
- if it includes more than 10 units, the project must meet minimum affordability requirements (or comply with the local jurisdiction’s inclusionary housing ordinance if that ordinance is more restrictive than SB 50);
- the project must comply with CEQA and 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 (except to the extent these requirements must be waived as part of the equitable communities incentive); and
- the project must *not* be located on a site that contained (1) housing occupied by tenants within the last seven years or (2) parcels on which an owner of residential real property used the Ellis Act (Gov’t Code 7060) to withdraw accommodations from rent or lease within 15 years prior to the submission of the application.

II. What is a “Job-rich Area”?

SB 50 defines a “job-rich area” as one that is “both high opportunity and jobs rich, based on whether, in a regional analysis, the tract meets the following:

- (A) The tract is higher opportunity and its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the tract.
- (B) The tract meets either of the following criteria:
 - (i) New housing sited in the tract would enable residents to live in or near a jobs-rich area, as measured by employment density and job totals.
 - (ii) New housing sited in the tract would enable shorter commute distances for residents, compared to existing commute levels.”¹

¹ Not all the proposed development must be located within the identified Jobs Rich Area. Instead, the legislation provides that “A residential development shall be deemed to be within an area designated as job-rich if both of the following apply:

Jobs-rich areas would be identified by the Department of Housing and Community Development (“HCD”) in consultation with the Office of Planning and Research. HCD would be required to publish a map showing Jobs-rich areas on January 1, 2020 and update the map every five years thereafter. SB 50 does not set out a process for the HCD determinations or indicate whether local communities or agencies will be consulted in that process.

III. What is a “Transit-rich” Area?”

SB 50 defines a “transit-rich housing project” as “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.”² A “major transit stop is “an existing rail transit station or a ferry terminal served by either bus or rail transit service” and a “high quality bus corridor” is a corridor with fixed route bus service meeting specific criteria such as average service intervals of 15 minutes or less during peak weekday commute hours.

IV. Equitable Communities Incentives

For qualifying projects in areas that HCD has identified as “Jobs-rich” SB 50 would require local governments to provide the following “Equitable Communities Incentives:”

- a waiver from maximum controls on density;
- a waiver from minimum automobile parking requirements greater than 0.5 automobile parking spots per unit;
- up to three incentives and concessions under the Density Bonus Law. (These incentives typically include a reduction in site development standards or modification of zoning code and architectural design requirements, such as reductions in setbacks, height limits and square footage requirements, approval of mixed-use zoning if it will reduce the cost

(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.”

² Not all the proposed development must be located within the identified area. The legislation provides that “A project shall be deemed to be within the radius [of a major transit stop or 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 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.”

of the housing development and remain compatible with the existing area, or the waiver of fees or dedication requirements. (Gov. Code § 65915(k).)

For qualifying Transit-rich projects, local governments would be required to make available the incentives for Jobs-rich areas and additional incentives based on the nature of the transit. Projects located within a one-quarter mile radius of a major transit stop would not be subject to maximum height requirements less than 55 feet; maximum floor area ratio requirements less than 3.25; or any minimum automobile parking requirements. A project located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop would not be subject to maximum height requirements less than 45 feet; maximum floor area ratio requirements less than 2.5; or any minimum automobile parking requirements.

SB 50 would allow local governments to “modify or expand the terms of an equitable communities incentive” as long as the modification is consistent with, and meets the minimum requirements of SB 50.

V. Housing Affordability Requirements

To be eligible for an equitable communities incentive, a project would need to include an affordable housing contribution or comply with the local jurisdiction’s inclusionary housing ordinance (if that ordinance requires levels of affordable housing in excess of the requirements in SB 50). The affordability requirements would be required to remain in place for a period of 55 years for rental units and 45 years for units offered for sale.

SB 50 would set the following standards for affordability of projects qualifying for an equitable communities incentive:

- If the project has 10 or fewer units there is no affordability requirement.
- If the project has 11 to 20 residential units, the development proponent may pay an in-lieu fee to the local government for affordable housing.
- If the project has more than 20 residential units, the development proponent shall do either of the following:
 - Make a comparable affordability contribution toward housing offsite that is affordable to lower income households; or
 - Include units on the site of the project that are affordable to extremely low, very low, or low-income households as follows:

Project Size	Inclusionary Requirement
21– 200 units	15% low income; or 8% very low income; or 6% extremely low income
201–350 units	17% low income; or 10% very low income; or 8% extremely low income

351 or more units	25% low income; or 15% very low income; or 11% extremely low income
-------------------	---

For projects making in-lieu contributions for offsite housing, the local government would be required to “make every effort to ensure that future affordable housing will be sited within one-half mile of the original project location within the boundaries of the local government by designating an existing housing opportunity site within a one-half mile radius of the project site for affordable housing.” In addition, the law would provide that “[t]o the extent practicable, local housing funding shall be prioritized at the first opportunity to build affordable housing on that site.” If no housing opportunity sites that satisfy these requirements are available, the local government would be required to designate a site for affordable housing within the boundaries of the local government and make findings that the site for the affordable housing development affirmatively furthers fair housing.

VI. Compliance with Other Laws

In order to be eligible for an equitable communities incentive, a project would still be subject to environmental review and need to comply with other state and local laws. The law would require that a project comply “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.” In addition, projects would be required to comply with “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.” Of course this requirement does not apply to standards that must be waived under the specific terms of the legislation (e.g., height limits for transit-rich projects or rules waived as part of the three density bonus incentives or concessions required).

VII. Sensitive Communities

SB 50 would allow jurisdictions with sensitive communities to satisfy its requirements through a community-led planning process at the neighborhood level to develop a community plan that may include zoning and any 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. These plans would be required to be consistent with the overall residential development capacity and the minimum affordability standards in SB 50.

Sensitive communities would be identified by HCD except in the Bay Area. In the Bay Area, SB 50 would adopt the following definition of sensitive community: “areas designated by the Metropolitan Transportation Commission on December 19, 2018, as the intersection of disadvantaged and vulnerable communities as defined by the Metropolitan Transportation Commission and the San Francisco Bay Conservation and Development Commission.” This identification would be updated at least every five years by HCD.

VIII. Responsibility for Costs

SB 50 provides that the State would not be required to provide reimbursements to local agencies pursuant to Government Code section 17556(d), which states “[t]he local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.” Thus, cities and counties would be responsible for any costs associated with implementing the legislation.