

CITY OF OAKLAND
BILL ANALYSIS



Date: April 17, 2007

Bill Number: AB 1231

Bill Author: Garcia

DEPARTMENT INFORMATION

Contact: Jeffrey Levin

Department: CEDA

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RECOMMENDED POSITION: (SUPPORT, SUPPORT IF AMENDED, NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

Support if Amended consistent with proposed policy guidelines (attached)

Summary of the Bill

Provides for allocation of \$850,000,000 in fund from Proposition 1C for the Regional Planning, Housing and Infill Incentive Program.

This bill would require these funds be made available to the Department of Housing and Community Development for the purposes of making infrastructure grants for construction or acquisition of capital assets, as defined, to qualifying cities, counties, and cities and counties. The bill would require a project to meet certain, listed criteria in order to be eligible for grant funding. Funds would be awarded on a competitive basis

Positive Factors for Oakland

This bill would provide significant amounts of funding that could be used for the costs of infrastructure needed to support development of housing throughout Oakland, particularly close to BART stations and along major transit corridors.

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Negative Factors for Oakland

AB 1231 contains a number of provisions regarding criteria for funding that could work against Oakland. For example, tying funding to progress in producing units to meet the Regional Housing Needs Analysis (RHNA) "fair share" numbers could be a significant barrier given the substantial increase in RHNA units that has been assigned to Oakland. The bill also doesn't include provisions for Master Project Areas that could be used to look at housing projects in the aggregate in an area.

Staff recommends seeking amendments to the bill. Staff specifically recommends that the City Council adopt the attached policy guidelines and authorize staff to work with the City's lobbyist to seek incorporation of those guidelines into the bill to the maximum extent possible before supporting it.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or** **None** (do not review with City Council, position not required)

Known support:

None

Known Opposition:

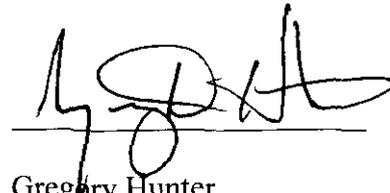
None

Attach bill text and state/federal legislative committee analysis, if available.

Bill text attached.

No bill analysis available.

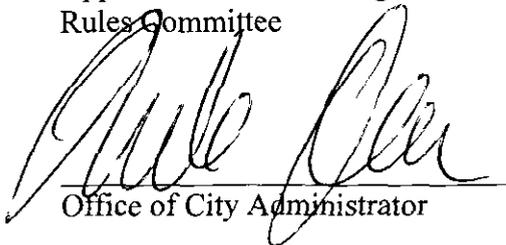
Respectfully Submitted,



Gregory Hunter,
Interim Director of Economic Development,
Redevelopment, Housing and Community
Development

Community and Economic
Development Agency

Approved for Forwarding to
Rules Committee


Office of City Administrator

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Proposed Policies for Allocation/Award of Prop 1C Infill Housing Funds

To the fullest extent possible, the City of Oakland seeks language in State legislation to implement the Regional Planning, Housing and Infill Incentives Program consistent with the following principles and guidelines:

Manner of Allocation:

Funds should be awarded on a competitive statewide basis by the Department of Housing and Community Development (HCD). Proposals could be screened by regional councils of government to ensure consistency with regional plans or regional priority development areas.

Eligible Applicants:

Private for-profit and non-profit developers and local governments. Developers and governments should be able to apply either separately or jointly. Developer applications should at least require a letter of support from the appropriate jurisdiction.

Eligible Projects:

Support the idea of “eligible projects” within “master projects” or “qualifying areas” where one or more developments taken together within a specified area constitute the project that qualifies for funding.

Large sites are often developed by more than one entity, and related infrastructure may be needed for some or all of those developments.

Qualifying areas could be defined in local and/or regional plans such as a project area redevelopment plan (including a five-year implementation plan), a regional growth plan such as a blueprint or a plan designating priority growth areas, a capital improvement plan, or a regional transportation plan or a transportation corridor plan. Projects would need to be consistent with those plans.

Eligible Uses:

Direct costs related to the creation of infill housing including:

- site acquisition, demolition and preparation
- site clean-up (toxic remediation)

- water, sewer, undergrounding of utilities
- street, road or other transportation improvements, including public transit, bicycle and pedestrian facilities
- park, open space and recreation facilities
- replacement parking required by a public entity (such as BART) to make the project possible.
- development of affordable housing within the qualifying area

Eligible Locations:

Projects should be located on infill sites previously developed for urban uses, or surrounded by already developed urban uses, with existing water and sewer trunk line service.

Any requirement for proximity to transit should use a somewhat more flexible standard than for the Transit Oriented Development program. We suggest that a project must be either (a) within one mile of a rail transit station or ferry terminal served by rail or bus service, or (b) along a transit corridor providing peak service in intervals of 10 minutes or less.

Minimum Density:

At a minimum, the so-called “Mullin densities” specified in Government Code 65583.2: net densities of 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas.

We would favor higher densities either as a threshold or as a category receiving significant competitive points.

Affordable Housing Component:

At least fifteen percent of the units to be created within the master development or “qualifying area” should be affordable to (a) households at or below 50 percent of area median or less for a period of at least 55 years for rental housing, or (b) households at or below 100 percent of area median income for at least 45 year for ownership housing.

Affordable units do not need to be in the same development as the eligible project, provided they are within the same master project or qualifying area.

Some provision should be made to allow affordable units completed within the past 3 years in a master development to be counted toward this requirement, especially where development of the affordable housing was a catalyst for development of the market rate housing.

Project Readiness:

Projects shall have received all environmental clearances under CEQA and must commence construction within 24 months of award.

Other Considerations:

“Master Development”: Support the concept of master developments as eligible areas that contain one or more individual qualifying housing projects. Eligible infrastructure should include not only infrastructure required for a particular development, but also infrastructure needed to support the cumulative impact of multiple developments within a master project or qualifying area.

Local and Regional Plans: Several proposals have sought to link the funding to local and regional plans. This could be an issue for Oakland. ABAG is in the process of designating “regional priority development areas”. Oakland will need to apply for designation of several such areas. However, linking the funding to these regional plans and priority areas could provide a role for regional bodies to identify priorities for allocation without having regional planning bodies involved in the direct allocation of funding for infrastructure and housing.

Other Criteria for Ranking: Care must be taken in assigning weight for progress in meeting regional housing goals. Oakland’s new allocation for 2007-2014 is in the vicinity of 17,000 units, up sharply from 7,700 units in the 1999-2006 period. While the City might be able to zone to accommodate this many units, the market is unlikely to build or absorb production at this level. Nor does the City have sufficient funds available to provide subsidies to make enough of these units affordable. If funds are awarded based on percentage of housing needs actually met, Oakland could be at a distinct disadvantage.

The existence of an inclusionary housing ordinance should not be a criterion for awarding points.

Ranking criteria that include such factors as age of housing stock, percentage of population that qualifies as “low and moderate income” under HUD definitions, and poverty levels should be pursued.

If funds are awarded similar to the existing Workforce Housing Incentive Grant program (which is the current language in AB29), cities should not be able to get credit for housing that falls below certain minimum densities. Cities that develop a large number of units of very low density housing (e.g., 1 to 4 units to the acre) should not be rewarded for this action.

ASSEMBLY BILL

No. 1231

Introduced by Assembly Member Garcia

February 23, 2007

An act to add Chapter 8.7 (commencing with Section 50720) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1231, as introduced, Garcia. Infill development: incentive grants.

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. The act establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury, requires the sum of \$850,000,000 to be deposited in the Regional Planning, Housing, and Infill Incentive Account, which the act establishes in the fund, and makes the money in the account available, upon appropriation, for infill incentive grants for capital outlay related to infill housing development and other related infill development, and for brownfield cleanup that promotes infill housing development and other related infill development consistent with regional and local plans, subject to the conditions and criteria that the Legislature may provide in statute.

This bill would require the Department of Housing and Community Development to use funds allocated from the Regional Planning, Housing, and Infill Incentive Account to make infrastructure grants for construction or acquisition of capital assets to qualifying cities, counties,

and cities and counties. The bill would require the grants to be used for infrastructure that is directly related to, and integral to facilitating the development of, identified infill housing projects. The bill would require the department to issue periodic Notices of Funding Availability specifying per-project limits and the competitive criteria upon which projects shall be selected. The bill would require projects to conform to certain criteria in order to be eligible for funding.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 8.7 (commencing with Section 50720)
 2 is added to Part 2 of Division 31 of the Health and Safety Code,
 3 to read:

4
 5 CHAPTER 8.7. REGIONAL PLANNING, HOUSING, AND INFILL
 6 INCENTIVE ACCOUNT
 7

8 50720. (a) The department shall use funds allocated pursuant
 9 to subdivision (b) of Section 53545 to make infrastructure grants
 10 for construction or acquisition of capital assets, as set forth in
 11 Section 16727 of the Government Code, to qualifying cities,
 12 counties, and cities and counties. The grants shall be used for
 13 infrastructure that is directly related to, and integral to facilitating
 14 the development of, identified infill housing projects. Funds may
 15 be used for any purpose specified in subdivision (b) of Section
 16 53545, subject to the restrictions contained in that subdivision.
 17 The department shall issue periodic Notices of Funding Availability
 18 specifying per-project limits and the competitive criteria upon
 19 which projects shall be selected. In order to be eligible for funding,
 20 projects shall conform to all of the following:

- 21 (1) Be consistent with the adopted General Plan of the applicant
 22 city, county, or city and county. The adopted General Plan shall
 23 include an adopted housing element that the department has found,
 24 pursuant to Section 65585 of the Government Code, to be in
 25 substantial compliance with the requirements of Article 10.6
 26 (commencing with Section 65580) of Chapter 3 of Division 1 of
 27 Title 7 of the Government Code.

1 (2) Be located in a city, county, or city and county that has met
2 or exceeded housing production thresholds established by the
3 department in consultation with the Department of Finance.

4 (3) Be included in, and be consistent with, the zoning or specific
5 plan and any of the following additional plans applicable to the
6 subject area or site:

7 (A) A project area redevelopment plan.

8 (B) A regional blueprint plan.

9 (C) A capital improvement plan.

10 (D) A regional transportation plan or a transportation corridor
11 plan.

12 (4) *For any of the plans identified in paragraph (1) or (3) that*
13 *is subject to the California Environmental Quality Act (Division*
14 *13 (commencing with Section 21000) of the Public Resources*
15 *Code), the notice of determination pursuant to the California*
16 *Environmental Quality Act shall have been completed and the*
17 *statutory period for challenges shall have expired. Both the*
18 *infrastructure project for which funding is applied for, and the*
19 *housing project to be facilitated, shall be identified with sufficient*
20 *specificity to be considered to have complied with the California*
21 *Environmental Quality Act.*

22 (5) *Be an integral part of infrastructure needs that are required*
23 *to allow an infill housing project to proceed to completion in a*
24 *timely manner, including, but not limited to, brownfield cleanup.*

25 (b) *For the purposes of this program, a qualifying infill project*
26 *shall be located within an urbanized area or within an urban cluster*
27 *on a site that has been previously developed for urban uses, or a*
28 *vacant site where the properties adjoining at least two sides of the*
29 *project site are, or previously have been, developed for urban uses.*
30 *For the purposes of this program, an urbanized area or an urban*
31 *cluster is as defined by the United States Census Bureau.*

32 (c) *In its review and rating of applications, the department shall*
33 *consider factors that include, but are not limited to, all of the*
34 *following:*

35 (1) *The number of housing units to be created.*

36 (2) *The depth and duration of the affordability of the housing.*

37 (3) *The creation of housing in job-rich areas.*

38 (4) *The proximity of housing to access to mass transit, parks,*
39 *social services, and other amenities.*

1 (5) The applicant's previous performance in meeting its regional
2 housing need allocation.

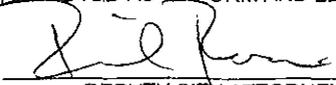
3 (d) To the extent feasible, the project selection process shall
4 ensure a reasonable geographic distribution of funds.

5 (e) Funds awarded pursuant to this chapter shall supplement,
6 but shall not supplant, other available funding.

7 (f) (1) *If the housing identified in the grant application is not*
8 *produced within five years after the date of completion of the*
9 *infrastructure project funded through this program, all funds*
10 *allocated under the grant shall be reimbursed by the applicant to*
11 *the Regional Planning, Housing, and Infill Incentive Account.*

12 (2) The department may grant one five-year extension to the
13 deadline imposed under paragraph (1) if it determines that the
14 inability to complete the required housing was related to
15 unanticipated market forces beyond the control of the applicant.

16 50722. The department shall adopt guidelines for the operation
17 of the program, and may administer the program under those
18 guidelines for 24 months after the date of adoption of the
19 guidelines, during which time the guidelines shall not be subject
20 to the requirements of Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Title 2 of the Government Code.


DEPUTY CITY ATTORNEY

CITY CLERK

2007 APR 25 AM 10:37

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION TO SUPPORT AB 1231 IF AMENDED

WHEREAS, the City of Oakland seeks to encourage the development of infill housing embodying smart growth principles, particularly around transit stations and along transit corridors; and

WHEREAS, development of such housing often requires investment to upgrade or build new infrastructure to support the new housing; and

WHEREAS, in 2006, California voters adopted Proposition 1C to provide \$2.85 billion in State funding for affordable housing and related infrastructure; and

WHEREAS, Proposition 1C included funding of \$850,000,000 for the Planning, Housing and Infill Incentive Program; and

WHEREAS, implementation of that program requires enabling legislation; and

WHEREAS, State Assembly Member Bonnie Garcia has introduced AB 1231 in the 2007 session of the California Legislature for this purpose; and

WHEREAS, AB 1231 supports many of the principles that the City wishes to see embodied in the program; and

WHEREAS, AB 1231 does not fully include all of the principles that would enable the City to fully utilize the funds to support planned developments; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby supports AB 1231 (Garcia) which will establish the Regional Planning, Housing and Infill Incentives Program, provided the bill is amended to the fullest extent possible to include provisions consistent with the City's policy objectives for such funds; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or her designee, to work actively to secure changes to AB 1231 or other bills which are consistent with those policy objectives and to support such bills to the extent that they advance the City's interests.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, BROOKS, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council