

**CITY OF OAKLAND**  
**BILL ANALYSIS**



**Date:** April 17, 2007

**Bill Number:** SB 46

**Bill Author:** Perata

**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 the Department of Housing and Community Development, upon appropriation by the Legislature of the funds in the Regional Planning, Housing, and Infill Incentive Account for certain purposes, to establish and administer a competitive grant program to allocate those funds to selected qualifying infill projects, as defined, for capital outlay related to infill housing development and related infill infrastructure needs, in amounts of not less than an unspecified amount and not more than an unspecified amount per project per annual funding cycle.

The bill would require an unspecified agency, upon appropriation by the Legislature of the funds in the Regional Planning, Housing, and Infill Incentive Account for certain additional purposes, to allocate those funds to selected infill projects for the purposes of assessment, remedial planning and reporting, and technical assistance, and for the cleanup, remediation, or development of brownfield sites, or for other similar or related costs.

**Positive Factors for Oakland**

This bill would provide significant amounts of funding that could be used for development of infill housing and 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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Date May 10, 2007

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CITY OF OAKLAND

SB 46 specifically allows funds to be used for costs of developing housing as well as infrastructure. At least 15% of the units in the qualifying project, or in the entire master project area containing the project, would be required to be affordable. (the bill does not yet define specific affordability levels). It would therefore be possible to count affordable housing units developed separately on adjacent sites for purposes of meeting the affordability requirement.

### **Negative Factors for Oakland**

SB 46 contains some provisions regarding criteria for funding that could work against Oakland. For example, priority for funding would be given to projects with higher percentages of affordable housing, which may not be possible for the projects and areas for which Oakland might apply. Also, while the bill includes funding for infill housing, there is no requirement that such funding be limited to subsidizing the affordable units, which dilutes the effectiveness of the funding.

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:**

California Association of Councils of Government

### **Known Opposition:**

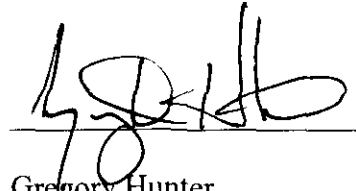
None

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

Bill text attached.

Bill analysis attached.

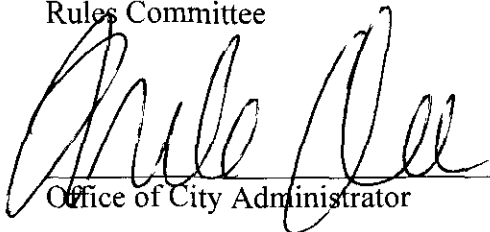
Respectfully Submitted,



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.

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 46

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Introduced by Senator Perata

December 22, 2006

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An act to ~~amend Section 53546~~ of add Sections 53545.12 and 53545.14 to the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as amended, Perata. Housing and Emergency Shelter Trust Fund Act of ~~2006~~: 2006: *Regional Planning, Housing, and Infill Incentive Account.*

*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, upon appropriation by the Legislature of the funds in the*

*Regional Planning, Housing, and Infill Incentive Account for certain purposes, to establish and administer a competitive grant program to allocate those funds to selected qualifying infill projects, as defined, for capital outlay related to infill housing development and related infill infrastructure needs, in amounts of not less than an unspecified amount and not more than an unspecified amount per project per annual funding cycle.*

*The bill would require an unspecified agency, upon appropriation by the Legislature of the funds in the Regional Planning, Housing, and Infill Incentive Account for certain additional purposes, to allocate those funds to selected infill projects for the purposes of assessment, remedial planning and reporting, and technical assistance, and for the cleanup, remediation, or development of brownfield sites, or for other similar or related costs.*

~~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. Existing law provides that the proceeds from the sale of these bonds is used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.~~

~~This bill would make technical, nonsubstantive changes in this provision:~~

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

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

- 1     SECTION 1. *The Legislature finds and declares that it is the*
- 2     *intent of the Legislature that appropriations for the expenditure*
- 3     *of funds deposited in the Regional Planning, Housing, and Infill*
- 4     *Incentive Account established under subdivision (b) of Section*
- 5     *53545 of the Health and Safety Code be based on, but not be*
- 6     *limited to, the following purposes:*
- 7     (i) *To encourage the development of high density infill housing*
- 8     *and mixed-use development for all levels of income and locations*
- 9     *near job centers and transit stations, thereby reducing vehicle*
- 10    *trips, commute times, vehicle miles traveled, and vehicle emissions.*
- 11    (ii) *To invest in established, urban neighborhoods by producing*
- 12    *new housing and improving related neighborhood infrastructure,*



1 *such as city streets, parks, and sewer and utility hookups, cleaning*  
2 *up brownfield sites, and furthering other similar or related*  
3 *purposes.*

4 *(c) To provide sustainable economic development and affordable*  
5 *housing.*

6 *(d) To protect the state's rich agricultural farmland, open*  
7 *spaces, and sensitive habitat.*

8 *(e) To promote the reuse and recycling of previously developed*  
9 *and passed-over land in urban areas, with a focus on*  
10 *environmentally distressed properties, or what are more commonly*  
11 *known as brownfields.*

12 *(f) To reward projects that are consistent with regional and*  
13 *local planning processes and accomplish any of the following:*

14 *(1) Improve mobility and reduce dependency on single-occupant*  
15 *vehicle trips.*

16 *(2) Accommodate an adequate supply of housing for all income*  
17 *levels.*

18 *(3) Reduce impacts on valuable habitat, productive farmland,*  
19 *and air quality.*

20 *(4) Conserve resources such as energy and water.*

21 *(5) Revitalize existing neighborhoods.*

22 *SEC. 2. Section 53545.12 is added to the Health and Safety*  
23 *Code, to read:*

24 *53545.12. (a) For the purposes of the grant program*  
25 *established under this section, the following definitions apply:*

26 *(1) "Eligible applicant" means a sponsor of a project-specific*  
27 *application, and may include a for-profit or nonprofit entity, a*  
28 *city, a city and county, a county, or a local redevelopment agency.*

29 *(2) "Qualifying infill project" means a residential or mixed-use*  
30 *residential project located within an urbanized area on a site that*  
31 *has been previously developed, or a vacant site where the*  
32 *properties adjoining at least two sides of the project site are, or*  
33 *previously have been, developed.*

34 *(A) An urbanized area is as defined by the United States Census*  
35 *Bureau.*

36 *(B) A property is adjoining the side of a project site if the*  
37 *property is separated from the project site only by an improved*  
38 *public right-of-way.*

39 *(b) Upon appropriation of funds by the Legislature for the*  
40 *purpose of implementing paragraph (1) of subdivision (b) of*

1 Section 53545, the department shall establish and administer a  
2 competitive grant program to allocate those funds to selected  
3 qualifying infill projects for capital outlay related to infill housing  
4 development and related infill infrastructure needs that are an  
5 integral part of the infill housing development, in amounts of not  
6 less than \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and not more than \_\_\_\_\_ dollars  
7 (\$ \_\_\_\_\_) per project per annual funding cycle.

8 (c) The department shall award the grants on or before the end  
9 of the fiscal year in which funds are appropriated for the grant  
10 program.

11 (d) The department shall establish a reasonable deadline by  
12 which grant award recipients are required to encumber the grant  
13 awards. All funds unencumbered on or before the established  
14 deadline shall revert to the department for reallocation in a  
15 subsequent grant award funding cycle.

16 (e) Capital outlay related to infill housing or mixed-use  
17 development and other related infill infrastructure that may be  
18 funded under the grant program includes, but is not limited to, all  
19 of the following:

20 (1) Cost of development, including construction and related  
21 planning and design.

22 (2) Project-specific creation, development, or rehabilitation of  
23 park or open space.

24 (3) Water, sewer, utilities, or other infrastructure related to a  
25 specific infill development project.

26 (4) Roads, parking structures, transit linkages, including, but  
27 not limited to, plazas, pedestrian paths, and bus and transit  
28 shelters.

29 (5) Support for alternative transit modes, including, but not  
30 limited to, walking, bicycling, and ride sharing.

31 (6) Transportation improvements other than those listed in  
32 paragraphs (4) and (5) that are related to a specific infill  
33 development project.

34 (7) Traffic mitigation.

35 (8) Demolition and site preparation.

36 (9) Sidewalks and streetscapes.

37 (f) A qualifying infill project shall be located in a city, county,  
38 or city and county, in which the general plan of the city, county,  
39 or city and county, has an adopted housing element that has been  
40 found by the department, pursuant to Section 65585 of the

1 *Government Code, to be in compliance with the requirements of*  
2 *Article 10.6 (commencing with Section 65580) of Chapter 3 of*  
3 *Division 1 of Title 7 of the Government Code.*

4 (g) (1) *A qualifying infill project shall include not less than 15*  
5 *percent affordable units, as defined in paragraph (3).*

6 (2) *For projects that contain both rental and ownership units,*  
7 *units of either or both product types may be included in the*  
8 *calculation of the affordability criteria.*

9 (3) *To the extent included in a project grant application, for the*  
10 *purpose of calculating the percentage of affordable units, the*  
11 *department shall consider the entire master development in which*  
12 *the development seeking grant funding is included.*

13 (4) *For the purposes of this subdivision, "affordable unit" means*  
14 *a unit that is offered for rent at a rate that is at or below \_\_percent*  
15 *of the area median income or is offered for sale at a price that is*  
16 *at or below \_\_percent of the area median income.*

17 (h) *A qualifying infill project shall include densities that, at a*  
18 *minimum, meet the density requirements established under*  
19 *subparagraph (B) of paragraph (3) of subdivision (c) of Section*  
20 *65583.2 of the Government Code.*

21 (i) *A qualifying infill project shall be located in an area*  
22 *designated for mixed-use or residential development pursuant to*  
23 *one of the following adopted plans:*

24 (1) *A general plan.*

25 (2) *A project area redevelopment plan.*

26 (3) *A regional blueprint plan.*

27 (4) *A regional transportation plan.*

28 (5) *A capital improvement plan.*

29 (j) *An applicant seeking a grant award for a qualifying infill*  
30 *project may include all components of a master development that*  
31 *include the development seeking grant funding.*

32 (k) *In its review and rating of applications for the award of*  
33 *grants, the department shall rank eligible infill projects based on*  
34 *the following priorities:*

35 (1) *Project readiness, which shall include a determination by*  
36 *the department that the project can proceed to construction in a*  
37 *timely manner based on the status of the project's environmental*  
38 *review, securing of necessary zoning and entitlements, commitment*  
39 *of funding contributions derived from other than the Housing and*

1 *Emergency Shelter Trust Fund Act of 2006, and level of local*  
2 *support.*

3 *(2) The extent to which the project exceeds the affordability*  
4 *threshold contained in subdivision (g).*

5 *(3) The extent to which the project exceeds the density thresholds*  
6 *contained in subdivision (h).*

7 *(4) The extent to which the project includes elements designed*  
8 *to achieve reductions in vehicle trips, emissions, or miles traveled,*  
9 *based on the following criteria:*

10 *(A) Proximity to public transit stations, as that term is defined*  
11 *in subdivision (b) of Section 65460.1 of the Government Code,*  
12 *and the project's likelihood of increasing transit ridership.*

13 *(B) Proximity and accessibility to retail and job centers.*

14 *(C) Components that support alternative transit modes,*  
15 *including, but not limited to, walking, bicycling, and ride sharing.*

16 *(D) Inclusion in an adopted regional blueprint plan or other*  
17 *regional growth plan that fosters efficient land use.*

18 *(E) The availability of pedestrian friendly project features.*

19 *(l) In allocating funds to projects pursuant to this section, the*  
20 *department, to the maximum extent feasible, shall ensure a*  
21 *reasonable geographic distribution of funds.*

22 *(m) Funds awarded pursuant to this section shall supplement,*  
23 *not supplant, other available funding.*

24 *(n) The department shall adopt guidelines for the operation of*  
25 *the grant program, and may administer the program under those*  
26 *guidelines for 24 months after the date of adoption of the*  
27 *guidelines, during which time the guidelines shall not be subject*  
28 *to the requirements of Chapter 3.5 (commencing with Section*  
29 *11340) of Division 3 of Title 2 of the Government Code.*

30 *(o) On or before April 1, 2008, and on or before April 1 of each*  
31 *fiscal year covering the duration of the grant program, the*  
32 *department shall provide a report to the Legislature on its activities*  
33 *relating to the administration of the program. At a minimum, the*  
34 *report shall include a summary of the projects that receive grants*  
35 *under the program for each fiscal year grants are awarded. The*  
36 *report shall include the description, location, and estimation of*  
37 *completion for each project that receives a grant award under this*  
38 *section.*

39 *SEC. 3. Section 53545.14 is added to the Health and Safety*  
40 *Code, to read:*

1 53545.14. (a) For the purposes of allocating funds under this  
2 section, the following definitions apply:

3 (1) "Brownfield site" has the same meaning as that term is  
4 defined under Section 44504.1.

5 (2) "Eligible applicant" means a sponsor of a project-specific  
6 application, and may include a for-profit or nonprofit entity, a  
7 city, a city and county, a county, or a local redevelopment agency.

8 (4) "Qualifying infill project" means a residential or mixed-use  
9 residential project located within an urbanized area on a site that  
10 has been previously developed, or a vacant site where the  
11 properties adjoining at least two sides of the project site are, or  
12 previously have been, developed.

13 (A) "An urbanized area" has the same meaning as that term is  
14 defined by the United States Census Bureau.

15 (B) A property is adjoining the side of a project site if the  
16 property is separated from the project site only by an improved  
17 public right-of-way.

18 (b) Upon appropriation of funds by the Legislature for the  
19 purpose of implementing paragraph (2) of subdivision (b) of  
20 Section 53545, the \_\_\_\_\_ shall allocate those funds to qualifying  
21 infill projects for the purposes of assessment, remedial planning  
22 and reporting, and technical assistance, and for the cleanup,  
23 remediation, or development of brownfield sites, or for other  
24 similar or related costs.

25 (c) In its review and rating of applications for funding under  
26 this section, the \_\_\_\_\_ shall give priority to applicants from  
27 economically struggling communities, as defined in subdivision  
28 (j) of Section 8090 of Title 4 of the California Code of Regulations.

29 (d) On or before April 1, 2008, and on or before April 1 of each  
30 fiscal year covering the duration of allocation of funds under this  
31 section, the \_\_\_\_\_ shall provide a report to the Legislature on its  
32 activities relating to the administration of this section. At a  
33 minimum, the report shall include a summary of the projects that  
34 receive funds under this section for each fiscal year funds are  
35 awarded. The report shall include the description, location, and  
36 estimation of completion for each project that receives funds under  
37 this section.

38 ~~SECTION 1. Section 53546 of the Health and Safety Code is~~  
39 ~~amended to read:~~

1 ~~53546. Bonds in the total amount of two billion eight hundred~~  
2 ~~fifty million dollars (\$2,850,000,000), exclusive of refunding~~  
3 ~~bonds, or so much thereof as is necessary, are hereby authorized~~  
4 ~~to be issued and sold for carrying out the purposes expressed in~~  
5 ~~this part and to reimburse the General Obligation Bond Expense~~  
6 ~~Revolving Fund pursuant to Section 16724.5 of the Government~~  
7 ~~Code. All bonds authorized that have been duly sold and delivered~~  
8 ~~as provided in this part shall constitute valid and legally binding~~  
9 ~~general obligations of the state, and the full faith and credit of the~~  
10 ~~state is hereby pledged for the punctual payment of both principal~~  
11 ~~and interest on those bonds.~~

12

13

14 CORRECTIONS:

15 Title—Lines 1 and 2.

16

BILL ANALYSIS

SENATE TRANSPORTATION & HOUSING COMMITTEE  
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 46  
AUTHOR: Perata  
VERSION: 4/10/07  
FISCAL: yes

Analysis by: Mark Stivers  
Hearing date: April 17, 2007

SUBJECT:

Proposition 1C's Regional Planning, Housing, and Infill  
Incentive Account

DESCRIPTION:

This bill provides the statutory framework for expenditure of the \$850 in Proposition 1C's Regional Planning, Housing, and Infill Incentive Account.

ANALYSIS:

In November 2006, California voters approved Proposition 1C, the \$2.85 billion Housing and Emergency Shelter Trust Fund Act of 2006. The bond act includes an \$850 million Regional Planning, Housing, and Infill Incentive Account that is subject to appropriation and further statutory guidance from the Legislature. Proposition 1C further provides that the funds are available for infill incentive grants for capital outlay related to infill housing and housing-related development as well as for brownfield cleanup that promotes infill housing and housing-related development that is consistent with regional and local plans.

With respect to the capital outlay related to infill development, Prop 1C lists the following types of projects but does not limit expenditures to these purposes:

Park creation, development, or rehabilitation to encourage infill development.

Water, sewer, or other public infrastructure costs associated with infill development.

Transportation improvements related to infill development projects.

Traffic mitigation.

This bill provides the statutory framework for expenditure of the \$850 in the Regional Planning, Housing, and Infill Incentive Account. The bill requires the Department of Housing and Community Development (HCD) to administer a competitive program to provide capital outlay grants for infill housing development and for related infrastructure that is an integral part of the infill housing development. The program is subject to the following parameters:

Eligible projects are residential or mixed-use residential projects within an urbanized area, as defined by the U.S. Census Bureau, on a site that has been previously developed or that is abutted on at least two sides by properties that are or have been developed. At the option of the applicant, the application may include a single residential development or cover a master development area that includes a single development and other planned development.

The project site must be designated for residential or mixed-use residential development in a general plan, redevelopment plan, capital improvement plan, regional blueprint, or regional transportation plan.

The project must be in a city or county that has an HCD-approved housing element.

The project or area served by the grant must include 15 percent of units that will be affordable at unspecified affordability levels.

The project must be developed at a density that is equal to or greater than the Mullin densities described in housing element law, namely 30 units per acre for jurisdictions in metropolitan counties, 20 units per acre in "suburban" jurisdictions, 15 units per acre in cities in non-metropolitan counties, and 10 units per acre in unincorporated areas in non-metropolitan counties.

Eligible applicants are for-profit or non-profit developers, cities, counties, and redevelopment agencies.

Eligible expenditures of funds include:

- ? The costs of development, including construction and related planning and design
- ? Project-specific creation, development, or rehabilitation of parks or open space
- ? Water, sewer, utilities, or other infrastructure related to the infill development
- ? Roads, parking structures, and transit linkages



- ? Support for alternative transit modes, including walking, bicycling, and ride sharing
- ? Traffic mitigation
- ? Demolition and site preparation
- ? Sidewalks and streetscapes

HCD shall use include the following priorities in its rating and ranking of applications:

- ? Project readiness
- ? The extent to which the project exceeds the Mullin density thresholds
- ? The extent to which the project exceeds the 15% affordability requirement
- ? The extent to which the project includes elements designed to achieve reductions in vehicle trips, emissions, or miles traveled based on the following criteria:
- ? Proximity to public transit
- ? Accessibility to alternative transit modes like walking, biking, or ride sharing
- ? Consistency with a regional growth blueprint that fosters efficient land use
- ? Availability of pedestrian-friendly project features

The grants shall be subject to unspecified minimum and maximum grant amounts.

HCD shall ensure a reasonable geographic distribution of funds to the maximum extent feasible.

HCD shall establish reasonable deadlines for grantees to encumber funds. Any funds not encumbered by the deadline shall revert back to HCD for reallocation.

Grant funds must supplement, not supplant, other available funding.

HCD may administer the program for 24 months with guidelines that are exempt from the Administrative Procedures Act.

HCD shall report annually on the program, including grants awarded and the status of funded projects.

The bill also provides that upon appropriation, an unspecified state agency shall award funds for the cleanup or development of brownfield sites. Eligible projects are residential or mixed-use residential projects within an urbanized area, as defined by the U.S. Census Bureau, on a site that has been previously developed or that is abutted on at least two sides by properties that are or have been developed. Eligible applicants are for-profit or non-profit developers, cities, counties, and

redevelopment agencies. Priority shall go to project in "economically struggling communities," as defined. The unnamed state entity shall also report to the Legislature annually on the program, including grants awarded and the status of funded projects.

COMMENTS:

- 1.Purpose of the bill . SB 46 establishes the process to distribute funds from the \$850 million Regional Planning, Housing and Infill Incentive Account contained in Proposition 1C, the Housing and Emergency Trust Fund Act of 2006, which was approved by the voters in November, 2006. According to the author, the legislation is intended to provide incentives for efficient land-use policy that rejects sprawl in favor of urban infill development. The bill establishes a process for HCD to award grants for residential and mixed-use infill developments, and related infrastructure to those developments, throughout California. The bill requires eligible projects to include the provision of affordable housing units and to meet specified density requirements. Project applicants get "bonus points" based on their "project readiness," the extent to which they exceed the threshold affordability and density requirements, and the extent to which they include elements that reduce vehicular trips and air emissions based on their proximity to transit stations, job centers, or retail shopping centers (among other amenities). SB 46 rewards land-use decisions that reject business-as-usual sprawl in favor of projects that revitalize neighborhoods, provide high-density, affordable housing units, and protect open space.
- 2.Laying the groundwork . The overall purpose of this program is to promote the development of infill housing. While many such viable development opportunities already exist, in many cases there are significant infrastructure needs that must be addressed before development can proceed. These needs often cost much more than a particular project can absorb economically, and developers and local governments have pointed out that, absent tax increases, few funding sources exist to address these needs. This bill seeks to take advantage of these viable development opportunities by providing funds to lay the necessary groundwork.
- 3.Role for regional priorities . A number of the largest councils of governments (COGs) in the state have adopted

regional growth plans, commonly known as blueprints, to guide future development in ways that bring housing closer to job centers, reduce transportation congestion, and improve air quality. These blueprints, however, are not binding upon local governments which maintain land use powers, and COGs have few tools to implement them. State funding is a powerful incentive that could be used to promote implementation of the blueprints, but the bill grants a very limited role to blueprint consistency. The bill requires projects to be located in an area designated for residential development in any one of five different types of plans, of which a blueprint is only one. In addition, the bill gives ranking priority, among other things, to projects that achieve reductions in vehicle trips, miles traveled or emissions based on various factors, of which blueprint consistency is but one. The author may wish to consider whether blueprint consistency should be required where adopted blueprints exist. Such a requirement would honor the extensive efforts that COGs have made to map out future growth as well as foster implementation of the blueprints. In addition, the author may wish to consider whether COGs should have some role in prioritizing applications from within their own region. To the extent that various applications are consistent with a particular regional blueprint, it may be appropriate to give priority to projects that would have the biggest impact towards achieving regional goals.

4. Ensuring that infrastructure provision leads to housing . The bill provides that eligible applicants are for-profit or non-profit developers, cities, counties, and redevelopment agencies. An eligible applicant, however, must apply in connection with a specific infill housing development. Cities, counties, and redevelopment agencies construct infrastructure but are almost never the housing developer. In order to tighten the connection between infrastructure and actual housing, it may be advantageous to require local government applicants to apply only in conjunction with a housing developer whose project is ready to go. Developers who provide the infrastructure and housing themselves would still be able to apply on their own. One exception to this requirement may be to allow local governments to acquire land for housing development with the area served by the infrastructure so long as there are tight controls on making this land available for development immediately after acquisition.

In order for the program to have the biggest impact possible, ideal applications would be those that provide infrastructure for a larger area, be it a downtown, an infill specific plan area, or other larger planning area, in which at least one housing developer is ready to proceed. The bill currently allows for these types of applications, but to further encourage these types of applications, the rating and ranking criteria could additionally advantage projects based on the number of proposed units to be constructed within the planning area per dollar of state funding requested.

5. Maximizing local financial support . The bill states that state funds provided under this program shall supplement but not supplant other available funding. This is a minimum guarantee that developers or local governments will not seek state funds unnecessarily. "Supplanting" generally refers to funds that have already been committed, however. The bill does not protect against applicants coming to the state for funding before exhausting all other sources of funding. To the extent that local communities are benefiting from the additional infrastructure, they should be contributing as much of their own resources as possible. While local match requirements help address this issue, they can prevent less well-funded communities from gaining access to the program. Ideally, HCD would commit state funds to a project under a "but for" test. "But for" the grant, the infrastructure and housing would not happen. Establishing a standard for this is very difficult, but the author may want to consider approaches to accomplish this goal so that scarce state funds can achieve the greatest possible results.

Similarly, some of the projects to be funded will undoubtedly be located within redevelopment projects areas. To the extent that the agency does not have its own tax increment funds available for the project, accessing this program is appropriate. Once the housing is developed, however, the agency most likely stands to collect a significant amount of additional tax increment revenue. The author may wish to consider whether in such cases the state assistance should come in the form of a loan. Loan repayments would allow the program to assist additional projects.

6. Brownfield issues . With respect to the brownfield remediation program contained in the bill, the main issue to resolve is which entity will oversee the program. The bill is currently silent on this question. The Department of Toxic Substances

Control and the Pollution Control Financing Authority are the two most likely candidates. A second issue is whether either of these entities should fund housing development once remediation is complete or limit their activity solely to remediation efforts. The bill currently allows for both. These agencies know brownfields cleanup but, to staff's knowledge, have not been involved in housing development. It may be more appropriate to have project developers return to HCD for any necessary development funding once remediation is complete.

7. Definition of infill . The bill currently defines infill projects as those located in an urbanized area, as defined by the U.S. Census Bureau, on a site that has been previously developed or that is abutted on at least two sides by properties that are or have been developed. This definition includes core census block groups that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile. The list of urbanized areas in California includes 56 separate areas, ranging from the Los Angeles-Long Beach-Santa Ana area to Manteca. Because this definition ultimately dictates what projects may apply for the program, it is likely to be the subject of input from many stakeholders.

8.A work in progress . Given the size and importance of the Regional Planning, Housing, and Infill Incentive Account, stakeholders have expressed great interest in how this program will be structured. Various organizations have submitted proposals, and numerous discussions have occurred. This bill represents the author's starting point for further discussions with these interested parties. In addition, the bill contains a number of blanks, including which state entity will administer the brownfields program, the minimum and maximum grant amounts, and the required levels of housing affordability. These and the issues mentioned above will be worked on as the bill moves. As a result, the bill is a work in progress. The committee may wish to bring the bill back to committee at a later date to review the final product.

#### RELATED LEGISLATION

AB 29 (Hancock) establishes criteria for the allocation of funds in Proposition 1C's Regional Planning, Housing, and Infill Incentive Account. This bill is in the Assembly Local

Government Committee and not currently set for hearing.

AB 842 (Jones) limits grants from a portion of Proposition 1C's Regional Planning, Housing, and Infill Incentive Account to jurisdictions within councils of governments or counties that adopt plans to reduce the growth increment of vehicle miles traveled by at least 10%. This bill is in the Assembly Local Government Committee and is not currently set for hearing.

AB 997 (Arambula) provides criteria for allocation of Proposition 1C's Regional Planning, Housing, and Infill Incentive Account, including a setaside through 2012 of \$150 million for cities with a population of 30,000 or less. This bill is in the Assembly Housing and Community Development Committee and is not currently set for hearing.

AB 1053 (Nuñez) requires the Secretary of the Business, Transportation and Housing Agency to prepare and submit to the Legislature a strategic plan, and obtain approval from the Legislature for the plan, prior to expending any funds from Proposition 1C that are not continuously appropriated. This bill is in the Assembly Housing and Community Development Committee and is set for hearing on April 25.

AB 1231 (Garcia) establishes criteria for the allocation of funds in Proposition 1C's Regional Planning, Housing, and Infill Incentive Account. This bill is in the Assembly Housing and Community Development Committee and is not currently set for hearing.

POSITIONS: (Communicated to the Committee before noon on  
Wednesday, April 11,  
2007)

SUPPORT: California Association of Councils of Government

OPPOSED: None received.



DEPUTY CITY ATTORNEY

OFFICE OF THE CITY CLERK  
OAKLAND

2007 APR 25 AM 10:38

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C. M. S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

## RESOLUTION TO SUPPORT SB 46 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 Senator Don Perata has introduced SB 46 in the 2007 session of the California Legislature for this purpose; and

**WHEREAS**, SB 46 supports many of the principles that the City wishes to see embodied in the program; and

**WHEREAS**, SB 46 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 SB 46 (Perata) 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 SB 46 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