



City of Encinitas City Council's Office

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July 15, 2024

Tony Kranz
Mayor

The Honorable Anna Caballero
Chair, Senate Appropriations Committee
California State Capitol, Room 412
Sacramento, CA 95814

**RE: AB 2560 (Alvarez) Density Bonus Law: California Coastal Act of 1976.
Notice of OPPOSITION (As Amended July 1, 2024)**

Allison Blackwell
Deputy Mayor

Dear Senator Caballero,

On behalf of the City of Encinitas, we respectfully submit our oppose position on AB 2560 (Alvarez), as amended on July 1, 2024. The committee amendments at the June 24, 2024 Senate Natural Resources and Water Committee (SNRW) present a significant shift in housing oversight and state authority and are extremely problematic for local governments. While we recognize the amendments were not author amendments and were provided by the committee, we now strongly oppose the bill. As amended, the bill will make it extremely challenging to develop affordable housing on the coast – counter to the author's clear intention of the bill.

Bruce Ehlers
Council Member

As introduced, AB 2560 would clarify that Density Bonus Law applies to developments within the coastal zone, as defined by the California Coastal Act. Density Bonus Law requires local governments to provide bonuses, concessions, waivers, reductions, or incentives to affordable housing projects if there is a minimum number of affordable units proposed in the project. As amended, the bill will present an extremely challenging reality that will mire local governments in planning approvals, preventing the actual development of affordable housing in the coastal zone.

Kellie Shay Hinze
Council Member

Joy Lyndes
Council Member

1) Two different state regulators will take the helm enforcing housing policies for coastal communities.

Local governments are required to develop housing elements and seek compliance with the California Department of Housing and Community Development (HCD). In the coastal zone, local coastal programs (LCPs) are required to include specific and limited land use and zoning information, and cities and counties must gain certification from the California Coastal Commission (Commission) under the California Coastal Act (Act). The Commission was stripped of its housing authority just five years after the Act was codified in statute. As amended, the bill would reinstate housing authority for the Commission and thrust two very different state regulatory agencies – HCD and the Commission –

Pamela Antil
City Manager

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would be in a position to require specific housing policy and program information and outcomes of cities and counties, independent of one another. This would open the floodgates for duplicative planning efforts, dueling regulatory oversight, doubling down on locals with housing requirements, and most importantly – stalling the actual development of affordable housing in the coastal zone. This change is fraught with potential litigation and without any statutory direction, opens the door for the Commission to demand significantly more housing policy and program information in local-developed LCPs, further hamstringing local governments to meet their housing goals.

2) A more stringent standard than existing law will be needed to implement Density Bonus Law in the coast.

After a recent court decision¹, the California Legislature codified into statute² that coastal protection requirements under the Act be harmonized with Density Bonus Law. This was intended to support local governments in achieving their goals of increasing affordable housing in the coastal zone while also protecting coastal resources and coastal access. While ‘harmonization’ is currently undefined in law, as amended, AB 2560 would now impose a new standard of needing to provide that Density Bonus Law is implemented in a way that does not result in significant adverse impacts to coastal resources. This sets a different standard than codified and defended in the courts. This would also allow the Commission to enforce to that standard. With the exemptions already included subdivision (m) of the bill, significant adverse impacts would not be anticipated to the coastal resources and environmentally sensitive areas in the coast. This would only allow for the Commission to require greater justification and analysis in the LCP when applying Density Bonus Law and would include a more stringent review of coastal development permits for projects using Density Bonus Law. This will make it harder for cities and counties to use Density Bonus Law to meet their currently mandated housing goals in the coast.

3) Unfunded and mandated LCP amendments and certification will delay affordable coastal housing development.

By requiring all 61 cities and 18 counties to update their LCPs by July 1, 2026 is an unfunded mandate that will inundate the Commission and delay the certification of LCPs to move forward with affordable housing projects that incorporate Density Bonus Law. LCP amendments are costly and time-consuming. Each amendment can range anywhere from several hundred thousand dollars to over a million dollars of local government staff time, local resources, and support. Local governments can and have already incorporated Density Bonus Law into their LCPs, without any change to existing law; therefore, mandating that all local governments do so will only add time delays and financial burdens on local governments without actually increasing affordable housing.

¹Kalnel Gardens, LLC v. City of Los Angeles, (2016) 3 Cal.App.5th 927

²Assembly Bill 2797 (Chapter 904, Statutes of 2018)

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For these reasons, the City of Encinitas opposes AB 2560 (Alvarez). If you have any questions, please feel free to call me at (760) 633-2618.

Sincerely,

A handwritten signature in blue ink that reads "A. J. Kranz". The signature is written in a cursive style with a long, sweeping tail on the letter "z".

Tony Kranz
Mayor
City of Encinitas

CC: The Honorable David Alvarez
Senator Catherine Blakespear
Member, Senate Appropriations Committee
Mark McKenzie, Staff Director, Senate Appropriations Committee
Kerry Yoshida, Policy Consultant, Senate Republican Caucus