



# City of Rialto

## Legislation Text

---

**File #:** 20-0114, **Version:** 1

---

For City Council Meeting [January 28, 2020]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Manager

FROM: Fred Galante, City Attorney

Request City Council to Authorize the City Manager to send a letter to the California Senate and Senator Connie M. Leyva Opposing Senate Bill 50 (SB 50) relating to Housing Development Incentives.

### **BACKGROUND:**

SB 50 (Wiener) is a further attempt by the State Legislature to respond to the ongoing housing crisis within the State. The bill aims to significantly increase housing construction in areas suited to supporting such housing, namely by promoting such construction in areas well served by transit and holding strong job opportunities. SB 50 attempts to accomplish this goal by limiting the ability of local governments to enforce planning, zoning code, and design standards within these targeted areas.

SB 50 establishes a new form of density bonus incentive, the Equitable Communities Incentive. This incentive would apply to areas with strong transit connections or job-rich areas. The incentive includes the removal of residential density limits and the removal or reduction of minimum parking requirements. To qualify for the Equitable Communities Incentive, a project must meet a set of affordability requirements, based on the size of the project.

SB 50 was recently amended to address concerns raised by local governments that SB 50 removes local governments from the planning process in these targeted areas and, instead, grants developers the power to set their own development standards. The recent amendment created an alternative planning process for jurisdictions to develop a “local flexibility plan” that, if approved by the California Department of Housing and Community Development (HCD), would exempt cities from nearly all aspects of SB 50 with the exception of requiring fourplexes in single-family zones.

### **ANALYSIS/DISCUSSION:**

Despite the recent amendment, SB 50 continues to pose a serious threat to local governments’ ability to control development within the high-transit or job-rich areas, even if the local government is taking steps to support affordable housing growth.

While Senator Wiener has taken a step in a positive direction based on the recent amendment, the amendment itself has created a number of concerns. They include the following:

- It is unclear under what criteria a “local flexibility plan” would be judged. Without clearly identified criteria, it is difficult to evaluate whether the “local flexibility plan” is actually viable

alternative planning option.

- OPR and HCD are tasked with developing “rules, regulations, or guidelines” for the submission and approval of a local flexibility plan” without sufficient direction from the Legislature. This rulemaking process is exempt from the Administrative Procedures Act, thus allowing the Office of Planning and Research (OPR) and HCD to craft rules, regulations, or guidelines with little to no public input or oversight.

In addition to the objections raised to the recent amendment to SB 50, there are a number of concerns with SB 50, which have not been addressed at all. They include the following:

- Developers of certain housing projects should not be allowed to override locally developed (and HCD-approved) housing elements which identify adequate sites with sufficient density to accommodate a city’s share of the regional housing need.
- If a city elects not to develop a “local flexibility plan” or if HCD does not approve a submitted “local flexibility plan” by January 1, 2023, a city is required to give a developer an “equitable communities incentive”, which overrides locally-developed and adopted height limitations, housing densities, and parking requirements. Many statewide standards enacted by the Legislature are included in the State’s Planning law. Standards should be established by the Legislature, not by individual developers.
- SB 50 gives housing developers and transit agencies, who are unaccountable to local voters, the power to determine housing densities, heights up to 55 feet, parking requirements, and design review standards for “transit-rich housing projects” within one-half mile of a major transit stop. For those “transit-rich housing projects” within one-quarter mile radius of a stop on a high-quality bus corridor, developers would be able to determine housing density, and parking requirements above .5 spots per unit.
- What is the full scope of SB 50? As presently drafted, it is very difficult to determine what constitutes a “jobs-rich area” since HCD and OPR are largely tasked with making that determination.
- SB 50 would require cities to allow greater density in communities that are high opportunity and jobs rich, but may lack access to public transit. This seems at odds with many state policies that encourage and incentivize more dense housing near transit so that individuals may become less dependent on automobiles.
- SB-50 creates an unjust two-tiered process that exempts cities with a population of less than 50,000 that are in a county with a population of less than 600,000, from the most extreme provisions of the measure. It is unclear why these cities should be treated differently than a similar size city in a county with a population over 600,000. Instead of arbitrarily establishing a population metric, it would be more appropriate to consider the full range of community characteristics when determining which areas of the state SB 50 should apply.

As of the preparation of this staff report, SB-50 is set to be heard by the Appropriations Committee on Thursday, January 23 and continues to progress through the State Legislature.

As the State Legislature has failed to adequately address concerns raised by local governments to SB-50, staff recommends that the City Council authorize the City Manager to send a letter in opposition to SB-50, detailing the City's concerns and objections to the same.

City staff is also working on a broader legislative agenda to present to the Council in the near future to seek direction on future legislation. That way, letters of support or opposition on pending legislation can be issued more expeditiously and consistent with the Council's approved policy goals.

**ENVIRONMENTAL IMPACT:**

The requested action does not constitute a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: "... (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment."

**GENERAL PLAN CONSISTENCY:**

Approval of this action complies with the following City of Rialto Guiding Principles, General Plan Goals and Policies:

*Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.*

**LEGAL REVIEW:**

The City Attorney has reviewed and supports the staff report.

**FINANCIAL IMPACT:**

Issuing an opposition letter is not anticipated to have any financial impact on the City's budget.

**RECOMMENDATION:**

Staff recommends that the City Council authorize the City Manager to send a letter to the California Senate and Senator Connie M. Leyva Opposing Senate Bill 50 (SB 50), relating to Housing Development Incentives.