

AMENDED IN SENATE JUNE 18, 2020

AMENDED IN SENATE APRIL 1, 2020

**SENATE BILL**

**No. 1299**

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**Introduced by Senator Portantino**  
*(Coauthors: Senators Beall and Galgiani)*

February 21, 2020

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An act to add Chapter 2.9 (commencing with Section 50495) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1299, as amended, Portantino. Housing development: incentives: rezoning of idle retail sites.

Existing law establishes, among other housing programs, the Workforce Housing Reward Program, which requires the Department of Housing and Community Development to make local assistance grants to cities, counties, and cities and counties that provide land use approval to housing developments that are affordable to very low and low-income households.

This bill, upon appropriation by the Legislature, would require the department to administer a program to provide incentives in the form of grants allocated as provided to local governments that rezone idle sites used for a big box retailer or a commercial shopping center to instead allow the development of workforce housing. The bill would define various terms for these purposes. In order to be eligible for a grant, the bill would require a local government, among other things, to apply to the department for an allocation of grant funds and provide documentation that it has met specified requirements. The bill would make the allocation of these grants subject to appropriation by the Legislature. The bill would require the department to issue a Notice of

Funding Availability for each calendar year in which funds are made available for these purposes. The bill would require that the amount of grant awarded to each eligible local government be equal to the average amount of annual sales and use tax revenue generated by each idle site identified in the local government’s application over the 7 years immediately preceding the date of the local government’s application, subject to certain modifications, and that the local government receive this amount for each of the 7 years following the date of the local government’s application.

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 2.9 (commencing with Section 50495)  
2 is added to Part 2 of Division 31 of the Health and Safety Code,  
3 to read:

4  
5 CHAPTER 2.9. RETAIL SITE REZONING INCENTIVES  
6

7 50495. For purposes of this chapter:

8 (a) “Big box retailer” means a store of greater than 75,000 square  
9 feet of gross buildable area that generates or previously generated  
10 sales or use tax pursuant to the Bradley-Burns Uniform Local Sales  
11 and Use Tax Law (Part 1.5 (commencing with Section 7200) of  
12 Division 2 of the Revenue and Taxation Code).

13 (b) “Commercial shopping center” means a group of two or  
14 more stores that maintain a common parking lot for patrons of  
15 those stores.

16 (c) “Idle” means that at least 80 percent of the leased or rentable  
17 square footage of the big box retailer or commercial shopping  
18 center site is not occupied for at least a 12-month calendar period.

19 (d) “Local government” means a city, county, or city and county.

20 (e) “NOFA” means Notice of Funding Availability.

21 (f) “Sales and use tax revenue” means the cumulative amount  
22 of revenue generated by taxes imposed by a local government in  
23 accordance with both of the following laws:

24 (1) The Bradley-Burns Uniform Local Sales and Use Tax Law  
25 (Part 1.5 (commencing with Section 7200) of Division 2 of the  
26 Revenue and Taxation Code).

1 (2) The Transactions and Use Tax Law (Part 1.6 (commencing  
2 with Section 7251) of Division 2 of the Revenue and Taxation  
3 Code).

4 (g) (1) “Use by right” means that the local government’s review  
5 of a workforce housing does not require a conditional use permit,  
6 planned unit development permit, or other discretionary local  
7 government review or approval that would constitute a “project”  
8 for purposes of Division 13 (commencing with Section 21000) of  
9 the Public Resources Code. Any subdivision of the sites shall be  
10 subject to all laws, including, but not limited to, the local  
11 government ordinance implementing the Subdivision Map Act  
12 (Division 2 (commencing with Section 66410) of Title 7 of the  
13 Government Code).

14 (2) A local ordinance may provide that “use by right” does not  
15 exempt the use from design review. However, that design review  
16 shall not constitute a “project” for purposes of Division 13  
17 (commencing with Section 21000) of the Public Resources Code.

18 (h) “Workforce housing” means an owner-occupied or rental  
19 housing development with an affordable housing cost or affordable  
20 rent to households with a household income greater than or equal  
21 to 80 percent of the area median income, but no more than 120  
22 percent of the area median income, for the area in which the big  
23 box retailer or commercial shopping center site is located, as  
24 determined pursuant to Section 50093.

25 50495.2. Upon appropriation by the Legislature, the department  
26 shall administer a program to provide incentives in the form of  
27 grants allocated in accordance with this chapter to local  
28 governments that rezone idle sites used for a big box retailer or a  
29 commercial shopping center to instead allow the development of  
30 workforce housing.

31 50495.4. In order to be eligible for a grant under this chapter,  
32 a local government shall do all of the following:

33 (a) Rezone one or more idle sites used for a big box retailer or  
34 commercial shopping center to allow workforce housing as a use  
35 by right.

36 (b) Approve and issue a certificate of occupancy for a workforce  
37 housing development on each site rezoned pursuant to subdivision  
38 (a) for which the local government seeks an incentive pursuant to  
39 this chapter.

1 (c) Apply to the department for an allocation of grant funds and  
2 provide documentation that it has complied with the requirements  
3 of this section.

4 50495.6. (a) Upon appropriation by the Legislature for  
5 purposes of this chapter, the department shall allocate a grant to  
6 each local government that meets the criteria specified in Section  
7 50495.4 in an amount determined pursuant to subdivision (b). For  
8 each calendar year in which funds are made available for purposes  
9 of this chapter, the department shall issue a NOFA for the  
10 distribution of funds to a local government during the 12-month  
11 period subsequent to the NOFA. The department shall accept  
12 applications from applicants at the end of the 12-month period.

13 (b) The amount of grant provided to each eligible local  
14 government, in each year for which the local government may  
15 receive an allocation pursuant to subdivision (c), shall be as  
16 follows:

17 (1) Subject to paragraphs (2) and (3), the annual amount of grant  
18 shall be equal to the average amount of annual sales and use tax  
19 revenue generated by each idle site identified in the local  
20 government's application that meets the criteria specified in  
21 subdivisions (a) and (b) of Section 50495.4 over the seven years  
22 immediately preceding the date of the local government's  
23 application.

24 (2) For any idle big box retailer or commercial shopping center  
25 site rezoned by a local government in accordance with subdivision  
26 (a) of Section 50495.4 to allow mixed uses, the amount of grant  
27 pursuant to paragraph (1) shall be reduced in proportion to the  
28 percentage of the square footage of the development that is used  
29 for a use other than workforce housing.

30 (3) If for any NOFA the amount of funds made available for  
31 purposes of this chapter is insufficient to provide each eligible  
32 local government with the full amount specified in paragraphs (1)  
33 and (2), based on the number of applications received, the  
34 department shall reduce the amount of grant funds awarded to each  
35 eligible local government proportionally.

36 (c) The department shall allocate the amount determined  
37 pursuant to subdivision (b) to each eligible local government  
38 annually for each of the seven years following the date of the local  
39 government's application.

1     ~~50495.8.—The department may adopt guidelines for purposes~~  
2 ~~of this chapter in accordance with Chapter 3.5 (commencing with~~  
3 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
4 ~~Code.~~

5     50495.8. *The department may review, adopt, amend, and repeal*  
6 *guidelines to implement uniform standards or criteria that*  
7 *supplement or clarify the terms, references, or standards set forth*  
8 *in this chapter. Any guidelines or terms adopted pursuant to this*  
9 *chapter shall not be subject to Chapter 3.5 (commencing with*  
10 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
11 *Code.*