

Senate Bill No. 88

Passed the Senate August 21, 2007

Secretary of the Senate

Passed the Assembly July 20, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 12.491 (commencing with Section 8879.50) to, and to repeal Article 5 (commencing with Section 8879.55) of Chapter 12.491 of, Division 1 of Title 2 of the Government Code, and to add Chapter 3.2 (commencing with Section 39625) to Part 2 of, and to add Chapter 10 (commencing with Section 44299.90) to Part 5 of, Division 26 of the Health and Safety Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 88, Committee on Budget and Fiscal Review. Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006: implementation.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of \$19.925 billion of general obligation bonds for specified purposes, including reducing emissions and improving air quality in trade corridors, State Route 99 corridor enhancements, port security projects, schoolbus retrofit and replacement purposes, state transportation improvement program augmentation, public transit and passenger rail improvements, transit security projects, local bridge seismic retrofit projects, highway-railroad grade separation and crossing improvement projects, state highway safety and rehabilitation projects, and local street and road improvement, congestion relief, and traffic safety projects. Existing law specifies the responsibilities of various agencies with regard to implementing the bond act. Existing law also establishes various programs for the reduction of vehicular air pollution, including the Lower-Emission School Bus Program adopted by the State Air Resources Board.

This bill would designate administrative agencies for each of the programs funded by the bond act, which would be the California Transportation Commission, the State Air Resources Board, the Controller, the Office of Homeland Security, the Office

of Emergency Services, or the Department of Transportation, as specified. The bill would impose various requirements on these agencies relative to adopting program guidelines, making of allocations of bond funds, and reporting on projects funded by the bond funds. The bill would enact other related provisions.

This bill would appropriate \$350,000,000 from the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account created by the bond act, for allocation by the Controller to cities and counties as an augmentation to funds appropriated from that account by the Budget Act of 2007.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Chapter 12.491 (commencing with Section 8879.50) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 12.491. IMPLEMENTATION OF THE HIGHWAY SAFETY,
TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY BOND
ACT OF 2006

Article 1. General Provisions

8879.50. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

(1) "Commission" means the California Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).

(4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.

(5) “Recipient agency” means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.

(6) “Fund” shall have the meaning as defined in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program’s cost.

(c) The administrative agency for each bond account is as follows:

(1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State and Local Partnership Program Account; the Local Bridge Seismic Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation and Preservation Account.

(2) The Controller is the administrative agency for the Local Street and Road Improvement, Congestion Relief and Traffic Safety Account of 2006.

(3) The Office of Homeland Security and the Office of Emergency Services are the administrative agencies for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.

(4) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act

(Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

(1) Provide for the audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

Article 2. State Route 99 Account

8879.51. (a) Funds for the program contained in subdivision (b) of Section 8879.23 shall be deposited in the State Route 99 Account, which is hereby created in the fund. The funds in the account shall be available to the department, as allocated by the commission, upon appropriation by the Legislature.

(b) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities relate to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

Article 3. Port and Maritime Security Account

8879.53. (a) Funds for the program contained in paragraph (3) of subdivision (c) of Section 8879.23 shall be deposited in the Port and Maritime Security Account, which is hereby created in the fund.

(b) Funds in the account shall be available to the Office of Homeland Security (OHS), within the Office of Emergency Services, upon appropriation by the Legislature. Funds shall be made available as grants to eligible applicants, as defined in paragraph (3) of subdivision (c) of Section 8879.23, for capital projects that include, but are not limited to, those projects described in paragraph (3) of subdivision (c) of Section 8879.23.

(c) Prior to allocating funds to projects from the account, the OHS shall adopt guidelines to establish the criteria and process for the distribution of funds. At least 30 days prior to adopting the guidelines, the OHS shall hold a public hearing on the proposed guidelines and shall provide opportunity for public review and comment.

(d) In allocating funds from the account, the OHS shall do the following:

- (1) Address the state's most urgent maritime security needs.
- (2) Balance the demands of the various ports (between large and small).

(3) Provide reasonable geographic balance in the distribution of funds.

(e) The OHS's activities to implement this section shall be incorporated into the report to the Legislature required in paragraph (3) of subdivision (c) of Section 8879.23.

Article 4. Transportation Facilities Account

8879.54. For the program funded by funds deposited in the Transportation Facilities Account established in subdivision (e) of Section 8879.23, the commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

Article 5. Public Transportation Modernization, Improvement, and Service Enhancement Account

8879.55. For funds appropriated for fiscal year 2007–08 in the Budget Act of 2007 from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) established pursuant to paragraph (1) of subdivision (f) of Section 8879.23, the following shall apply:

(a) (1) Upon appropriation of funds from PTMISEA, the Controller shall identify and develop a list of eligible project sponsors, as defined in paragraph (2) of subdivision (h), and the amount each is eligible to receive pursuant to the formula in paragraph (3) of subdivision (f) of Section 8879.23. It is the intent of the Legislature that funds allocated to project sponsors pursuant to this section provide each project sponsor with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section

99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(3) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(4) The Controller shall notify project sponsors of the amount of funding each is eligible to receive from PTMISEA for the 2007–08 fiscal year based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible PTMISEA capital project, a project sponsor on the list developed pursuant to paragraph (1) of subdivision (a) shall submit to the department a description of the proposed capital project or projects it intends to fund with PTMISEA funds for fiscal year 2007–08. The description shall include all of the following:

(1) A summary of the proposed project, which shall describe the benefit the project intends to achieve.

(2) The useful life of the project, which shall not be less than the required useful life for capital assets pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), specifically subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including the identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the department shall review the information solely to determine all of the following:

(1) The project is consistent with the requirements for funding under paragraph (1) of subdivision (f) of Section 8879.23.

(2) The project is a capital improvement that meets the requirements of the state's general obligation bond law and has a useful life consistent with paragraph (2) of subdivision (b).

(3) The project, or a minimum operable segment of the project, is, or will become, fully funded with an allocation of funds from the PTMISEA, and the funds can be encumbered within three years of the allocation based on the department's review of the project's phase or schedule for completion, as submitted by the project sponsor.

(d) (1) Upon conducting the review required in subdivision (c) and determining the proposed projects to be in compliance with the requirements of that subdivision, the department shall biannually adopt a list of projects eligible for an allocation from the funds appropriated to the account in fiscal year 2007–08.

(2) Upon adoption of the list by the department, the department shall provide the list of projects eligible for funding to the Controller.

(e) Upon receipt of the information required in subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to the project sponsors on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one project sponsor shall not exceed that project sponsor's share of funds from the PTMISEA pursuant to the formula contained in subdivision (a).

(f) The audit of public transportation operator finances already required under the Transportation Development Act pursuant to Section 99245 of the Public Utilities Code shall be expanded to include verification of receipt and appropriate expenditure of bond funds pursuant to this section. Each sponsoring entity receiving bond funds from this account in a fiscal year for which an audit is conducted shall transmit a copy of the audit to the department, and the department shall make the audits available to the Legislature and the Controller for review on request.

(g) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of the state agencies' activities related to the administration of funds from the account, including the administration of funds made available to the department for intercity rail improvements pursuant to paragraph (2) of subdivision (f) of Section 8879.23. The summary, at a minimum, shall include a description and the location of the projects funded from the account, the amount of funds allocated to each project, the status of each project, a description of the public benefit expected from each project, and a designation of any projects that have been subject to an audit under subdivision (f). The department and project sponsors shall provide the commission with necessary information for the preparation of the summary required under this subdivision.

(h) For purposes of this section, the following terms shall have the following meanings:

(1) "Project" means a capital improvement authorized under paragraph (1) of subdivision (f) of Section 8879.23 or a transit capital project, including a bus, rail or waterborne transit capital project, or minimum operable segment thereof, that is consistent with the project sponsor's most recently adopted short-range transit plan, or other publicly-adopted plan that programs or prioritizes the expenditure of funds for transit capital improvements.

(2) "Project sponsor" means a transit operator, including a rail transit, commuter rail, bus, or waterborne transit operator, eligible to receive an allocation of funds under the State Transit Assistance program pursuant to Sections 99314 and 99314.3 of the Public Utilities Code, or a local agency, including a transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, eligible to receive

an allocation of funds under the State Transit Assistance program pursuant to Section 99313 of the Public Utilities Code.

(i) A project sponsor that is identified to receive an allocation of funds under this section, but that does not submit a project for funding in the 2007–08 fiscal year, may utilize its funding share in a subsequent fiscal year.

8879.56. This article shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

Article 6. Transit System Safety, Security, and Disaster
Response Account

8879.57. Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section 8879.23, shall be allocated as follows:

(a) (1) Sixty percent of available funds shall be allocated for capital expenditures to agencies and transit operators eligible to receive State Transit Assistance funds pursuant to Sections 99313 and 99314 of the Public Utilities Code. Of these funds, 50 percent shall be allocated to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be allocated to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections. Funds allocated to the Metropolitan Transportation Commission pursuant to Section 99313 of the Public Utilities Code shall be suballocated to transit operators within its jurisdiction pursuant to Section 99314 of the Public Utilities Code.

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

- (ii) Explosive device mitigation and remediation equipment.
- (iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.
- (iv) Interoperable communications equipment.
- (v) Physical security enhancement equipment.
- (vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.
- (vii) Other security-related projects approved by the Office of Homeland Security (OHS).

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(b) (1) Twenty-five percent of available funds shall be allocated for capital expenditures to regional public waterborne transit agencies authorized to operate a regional public water transit system, including the operation of water transit vessels, terminals, and feeder buses, and not otherwise eligible to receive State Transit Assistance funds as of the effective date of this article. Funds shall be allocated for eligible capital expenditures that enhance the capacity of regional public waterborne transit agencies to provide disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster or emergency.

(2) Eligible capital expenditures include, but are not limited to, the construction or acquisition of new vessels, the capital improvement or construction of docks, terminals, or other waterborne transit facilities, the purchase of related equipment, and the construction of fueling facilities. A project shall (A) provide capital facilities and equipment to a regional public waterborne transit system that enhances the ability of the system to respond to a regional emergency, (B) be included in a regional plan, including, but not limited to, a regional plan for waterborne transit expansion or disaster response preparedness, and (C) provide maximum flexibility in responding to disasters or emergencies.

(c) (1) Fifteen percent of available funds shall be made available for capital expenditures to the intercity passenger rail system

described in Section 14035 and to the commuter rail systems operated by the entities specified in Section 14072 and in Section 99314.1 of the Public Utilities Code. Operators who receive funding pursuant to this subdivision shall not be eligible to receive funding pursuant to subdivision (a).

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other security-related projects approved by OHS.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

8879.58. (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections

99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations

pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to OHS a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), OHS shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, OHS shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, OHS shall

prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from OHS required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agencies or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in order to complete the audit. The Controller's office shall transmit copies of all completed audits to OHS and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

8879.59. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivisions (b) of Section 8879.57, the Office of Emergency Services (OES) shall administer a grant application and award program for those transit agencies and intercity.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, OES shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OES shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OES shall issue a notice of funding availability no later than October 1.

(e) No later than December 1, of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to OES for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, OES shall select eligible projects to receive grants under this section. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

8879.60. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to intercity and commuter rail operators eligible to receive funds pursuant to subdivision (c) of Section 8879.57, OHS shall administer a grant application and award program for those intercity and commuter rail operators.

(b) Funds awarded to intercity and commuter rail operators pursuant to this section shall be for eligible capital expenditures as described in subdivision (c) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, OHS shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OHS shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OHS shall issue a notice of funding availability no later than October 1.

(e) No later than December 1, of each fiscal year in which the notice in subdivision (d) is issued, eligible intercity and commuter rail operators may submit project nominations for funding to OHS for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, OHS shall select eligible projects to receive grants under this section. Grants awarded to intercity and commuter rail operators pursuant to subdivision (c) of Section 8879.57 shall be for eligible capital expenditures, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of that section.

8879.61. (a) Entities described in subdivisions (a), (b), and (c) of Section 8879.57 receiving an allocation of funds pursuant to this article shall expend those funds within three fiscal years of the fiscal year in which the funds were allocated. Funds remaining unexpended thereafter shall revert to OHS or OES, as applicable, for reallocation in subsequent fiscal years.

(b) Entities that receive grant awards from funds allocated pursuant to subdivisions (b) or (c) of Section 8879.57 are not eligible to receive awards from the funds allocated pursuant to subdivision (a) of Section 8879.57.

(c) On or before May 1 of each year, OHS and OES shall report to the Legislature on their activities under this article. The report shall include a summary of the projects selected for funding during the fiscal year in which awards were made, as well as the status of projects selected for funding in prior fiscal years.

(d) Funds appropriated for the program established by this article in the Budget Act of 2007 shall be allocated consistent with the allocation schedule established in Section 8879.57.

Article 7. Local Bridge Seismic Retrofit Account

8879.62. (a) Funds deposited in the Local Bridge Seismic Retrofit Account established pursuant to subdivision (i) of Section 8879.23 shall be appropriated to the department to provide the required match for federal Highway Bridge Replacement and Repair funds available to the state for seismic work on local bridges, ramps, and overpasses, as identified by the department.

(b) The commission shall allocate funds to the department based upon an annual request for funding submitted to the commission by the department on or before September 30 of each year and the level of appropriation provided by the Legislature to the program. The department may suballocate the funds to local agencies for project implementation, where appropriate.

(c) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

Article 8. Highway-Railroad Crossing Safety Account

8879.63. (a) Prior to allocating funds appropriated from the Highway-Railroad Crossing Safety Account established pursuant to subdivision (j) of Section 8879.23, the commission, in cooperation with the Public Utilities Commission, the department, and the High-Speed Rail Authority, shall adopt guidelines to establish the criteria and process to allocate funds to an eligible project in the program. The guidelines shall be adopted no later than February 15, 2008, and only after the commission holds a public hearing in northern California and a public hearing in southern California to review and to receive public comment on the proposed guidelines. The commission may incorporate the hearings on the proposed guidelines into its regularly scheduled hearings.

(b) Funds available under this section shall be used to provide the state match for local, federal, or private funds for high-priority grade separation and railroad crossing safety improvements in California. The commission shall adopt strategies to invest these funds in a manner to make railroad crossing safety improvements at any of the following:

- (1) Crossings where freight rail and passenger rail share the affected guideway.
- (2) Crossings with high incidents of motor vehicle-rail or pedestrian-rail accidents.
- (3) Crossings with high vehicle-hours of delay.

(4) Crossings where an improvement will result in quantifiable emission benefits.

(5) Crossings where the improvement will improve the flow of rail freight to or from a port facility.

(c) The guidelines adopted by the commission pursuant to subdivision (a) shall articulate the amount of funds appropriated to the account that will be expended for purposes of paragraph (1) of subdivision (j) of Section 8879.23 and for purposes of paragraph (2) of subdivision (j) of Section 8879.23.

(d) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

Article 9. Highway Safety, Rehabilitation, and Preservation Account

8879.64. (a) Funds appropriated from the Highway Safety, Rehabilitation, and Preservation Account established in paragraph (1) of subdivision (k) of Section 8879.23 shall be available to the department, upon allocation by the commission, for improvements to the state highway system that are consistent with the 10-year State Highway Operation and Preservation Program (SHOPP) Plan prepared pursuant to Section 14526.5.

(b) As part of the program required to be developed for distribution of funds identified in paragraph (2) of subdivision (k) of Section 8879.23, one hundred fifty million dollars (\$150,000,000) of the amount appropriated for this purpose shall be allocated to any city in the state with a population of over 3.5 million persons as of January 1, 2007, as determined by the Population Research Unit of the Department of Finance pursuant to Section 13073, that has a program for systemwide installation and upgrade of traffic signals within its jurisdiction. Funds shall be used for the purpose of upgrading and installing traffic signal synchronization and completing systemwide installation within its jurisdiction.

(c) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.

Article 10. Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006

8879.65. (a) Funds appropriated from the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, established by subdivision (l) of Section 8879.23, shall be made available to the Controller for allocation to cities, counties, and a city and county. The list of projects expected to be funded with bond funds shall include a description and the location of the proposed project, a proposed schedule for the project's completion, and the estimated useful life of the capital improvement. From bond funds appropriated in the 2007–08 fiscal year for cities, including a city and county, each city, and city and county, shall receive at least its minimum allocation of four hundred thousand dollars (\$400,000), as described in subparagraph (B) of paragraph (1) of subdivision (l) of Section 8879.23. The remainder of the funds appropriated for cities, including a city and county, shall be allocated in the proportion described in subparagraph (B) of paragraph (1) of subdivision (l) of Section 8879.23. In no case shall a city, or a city and county, receive an allocation in excess of its total share, as described in subdivision (l) of Section 8879.23.

(b) Prior to receiving an allocation of funds from the Controller in a fiscal year, an eligible local agency shall submit to the Department of Finance a list of projects expected to be funded with bond funds pursuant to an adopted city, county, or city and county budget. All projects proposed to be funded with funds from the account shall be included in a city, county, or city and county budget that is adopted by the applicable city council or board of supervisors at a regular public meeting.

(1) The Department of Finance shall report monthly to the Controller the eligible local agencies that have submitted a list of projects as described in this subdivision.

(2) Upon receipt of the information described in paragraph (1), the Controller shall allocate funds to those agencies that have submitted a list of projects, as reported by the Department of Finance.

(c) Upon expending funds from the account, a city, county, or city and county shall submit documentation to the Department of Finance which includes a description and location of each project, the amount of funds expended on the project, the completion date, and the project's estimated useful life. The documentation shall be forwarded to the department, in a manner and form approved by the department, at the end of each fiscal year until the funds in the account are exhausted. The department may post the information contained in the documentation on the department's official Web site.

(d) A city, county, or city and county receiving funds pursuant to this section shall have three fiscal years to expend the funds from the date that the funds are allocated to it by the Controller, and any funds not expended within that period shall be returned to the Controller and be reallocated to other cities, counties, or a city and county, as applicable, pursuant to the allocation formulas set forth in subparagraph (A) or (B) of paragraph (1) of subdivision (l) of Section 8879.23, but excluding the requirement for a minimum city allocation as described in subparagraph (B) of paragraph (1) of that subdivision and section.

(e) Subject to the requirements and conditions of this section, it is the intent of the Legislature to appropriate funds from the account so that the Controller may allocate funds to eligible local agencies in two cycles that cover four years, and so that the Controller may allocate at least one-half of each local agency's allocation amount in the first cycle of payments.

(f) The sum of three hundred fifty million dollars (\$350,000,000) is hereby appropriated from funds in the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 created pursuant to subdivision (l) of Section 8879.23, for allocation pursuant to this article, as an augmentation to the amount appropriated in Item 9350-104-6065 of the Budget Act of 2007.

SEC. 2. Chapter 3.2 (commencing with Section 39625) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 3.2. GOODS MOVEMENT EMISSION REDUCTION PROGRAM

39625. The Legislature finds and declares as follows:

(a) In November 2006, the voters approved the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, also known as Proposition 1B, that, among other things, provided one billion dollars (\$1,000,000,000) to reduce emissions associated with the movement of freight along California's trade corridors.

(b) Proposition 1B requires these funds to be made available, upon appropriation by the Legislature and subject to the conditions and criteria provided by the Legislature, to the State Air Resources Board in order to reduce the emissions associated with goods movement.

(c) Proposition 1B further required these funds to be made available for emission reductions not otherwise required by law or regulation. These funds are intended to supplement existing funds used to finance strategies that reduce emissions and public health risk associated with the movement of freight commencing at the state's seaports and land ports of entry and transported through California's trade corridors.

(d) Tremendous growth in goods movement activity has created a public health crisis in communities located adjacent to ports and along trade corridors. It is the intent of the Legislature that these funds be expended in a manner that reduces the health risk associated with the movement of freight along California's trade corridors.

(e) It is the intent of the Legislature that the state board maximize the emission reduction benefits, achieve the earliest possible health risk reduction in heavily impacted communities, and provide incentives for the control of emission sources that contribute to increased health risk in the future.

(f) It is the intent of the Legislature that the state board develop partnerships between federal, state, and private entities involved in goods movement to reduce emissions.

(g) The purpose of this chapter is to establish standards and procedures for the expenditure of these funds.

39625.01. This chapter shall be known, and may be cited, as the Goods Movement Emission Reduction Program.

39265.02. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the following terms have the following meanings:

(1) “Administrative agency” means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, as specified in subdivision (c).

(2) Unless otherwise specified in this chapter, “project” includes equipment purchase, right-of-way acquisition, and project delivery costs.

(3) “Recipient agency” means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code that is responsible for implementation of an approved project.

(4) “Fund” shall have the meaning as defined in subdivision (c) of Section 8879.20 of the Government Code.

(b) Administrative costs, including audit and program oversight costs for the agency administering the program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the program’s costs.

(c) The State Air Resources Board is the administrative agency for the Goods Movement Emission Reduction Program pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), and shall do all of the following:

- (1) Provide for audit of project expenditures and outcomes.
- (2) Require that the useful life of the project be identified as part of the project nomination process.
- (3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

39625.1. As used in this chapter, the following terms have the following meanings:

(a) “Applicant” means any local public entity involved in the movement of freight through trade corridors of the state or involved in air quality improvements associated with goods movement.

(b) “Emission” or “emissions” means emissions including, but not limited to, diesel particulate matter, oxides of nitrogen, oxides of sulfur, and reactive organic gases.

(c) “Emission sources” means one of the following categories of sources of air pollution associated with the movement of freight through California’s trade corridors: heavy-duty trucks, locomotives, commercial harbor craft, ocean-going vessels related to freight, and cargo-handling equipment.

(d) “Goods movement facility” means airports, seaports, land ports of entry, freight distribution warehouses and logistic centers, freight rail systems, and highways that have a high volume of truck traffic related to the movement of goods, as determined by the state board.

(e) “Trade corridors” means any of the following areas: the Los Angeles/Inland Empire region, the Central Valley region, the Bay Area region, and the San Diego/border region.

39625.3. Funding pursuant to this chapter may include grants, loans, and loan guarantees.

39625.5. (a) (1) Upon appropriation by the Legislature from the funds made available by paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code, the state board shall allocate funds on a competitive basis for projects that are shown to achieve the greatest emission reductions from each emission source identified in subdivision (c) of Section 39625.1, not otherwise required by law or regulation, or by a memorandum of understanding or any other agreement executed between a railroad company and a state or federal agency, a local air quality management district, or a local air pollution control district, including, but not limited to, the ARB/Railroad Statewide Agreement Particulate Emissions Reductions Program at California Rail Yards, dated June 2005, from activities related to the movement of freight along California’s trade corridors, commencing at the state’s airports, seaports, and land ports of entry.

(2) Projects eligible for funding pursuant to paragraph (1) shall include, but are not limited to, the following:

(A) The replacement, repower, or retrofit of heavy-duty diesel trucks.

(B) The replacement, repower, or retrofit of diesel locomotive engines, with priority given to switching locomotive engines.

(C) The replacement, repower, or retrofit of harbor craft that operates at the state's seaports.

(D) The provision of on-shore electrical power for ocean freight carriers calling at the state's seaports to reduce the use of auxiliary and main engine ship power.

(E) Mobile or portable shoreside distributed power generation projects that eliminate the need to use the electricity grid.

(F) The replacement, repower, or retrofit of cargo handling equipment that operates at the state's seaports and rail yards.

(G) Electrification infrastructure to reduce engine idling and use of internal combustion auxiliary power systems at truck stops, intermodal facilities, distribution centers, and other places where trucks congregate.

(b) (1) The state board shall allocate funds in a manner that gives priority to emission reduction projects that achieve the earliest possible reduction of health risk in communities with the highest health risks from goods movement facilities.

(2) In evaluating which projects to fund, the state board shall at a minimum consider all of the following criteria:

(A) The magnitude of the emission reduction.

(B) The public health benefits of the emission reduction.

(C) The cost-effectiveness and sustainability of the emissions reductions.

(D) The severity and magnitude of the emission source's contributions to emissions.

(E) Regulatory and State Implementation Plan requirements, and the degree of surplus emissions to be reduced.

(F) The reduction in greenhouse gases, consistent with and supportive of emission reduction goals, consistent with existing law.

(G) The extent to which advanced emission reduction technologies are to be used.

(H) The degree to which funds are leveraged from other sources.

(I) The degree to which the project reduces air pollutants or air contaminants in furtherance of achieving state and federal ambient air quality standards and reducing toxic air contaminants.

(J) The total emission reductions a project would achieve over its lifetime per state dollar invested.

(K) Whether an emissions reduction is likely to occur in a location where emissions sources in the area expose individuals

and population groups to elevated emissions that result in adverse health effects and contribute to cumulative human exposures to pollution.

(c) The state board shall ensure that state bond funds are supplemented and matched with funds from federal, local, and private sources to the maximum extent feasible.

39626. (a) (1) The state board shall develop guidelines by December 31, 2007, consistent with the requirements of this chapter, to implement Section 39625.5, in consultation with stakeholders, including, but not limited to, local air quality management and air pollution control districts, metropolitan planning organizations, port authorities, shipping lines, railroad companies, trucking companies, harbor craft owners, freight distributors, terminal operators, local port community advisory groups, community interest groups, and airports. The guidelines shall, at a minimum, include all of the following:

(A) An application process for the funds, and any limits on administrative costs, including a local administrative cost limit of up to 5 percent.

(B) A requirement for a contribution of a specified percentage of funds leveraged from other sources or in-kind contributions toward the project.

(C) Project selection criteria.

(D) The method by which the state board will consider the air basin's status in maintaining and achieving state and federal ambient air quality standards and the public health risk associated with goods movement-related emissions and toxic air contaminants.

(E) Accountability and auditing requirements to ensure that expenditure of bond proceeds, less administrative costs, meets quantifiable emission reduction objectives in a timely manner, and to ensure that the emission reductions will continue in California for the project lifetime.

(F) Requirements for agreements between applicants and recipients of funds executed by the state board related to the identification of project implementation milestones and project completion that ensure that if a recipient fails to accomplish project milestones within a specified time period, the state board may modify or terminate the agreement and seek other remedies as it deems necessary.

(2) Prior to the adoption of the guidelines, the state board shall hold no less than one public workshop in northern California, one public workshop in the Central Valley, and one public workshop in southern California.

(b) For each fiscal year in which funds are appropriated for the purposes of this chapter, the state board shall issue a notice of funding availability no later than November 30. For the 2007–08 fiscal year, if funds are appropriated for the purposes of this chapter, the state board shall issue a notice of funding upon adoption of the guidelines described in subdivision (a).

(c) (1) After applications have been submitted and reviewed for consistency with the requirements of this chapter and the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, the state board shall compile and release to the public a preliminary list of all projects that the state board is considering for funding and provide adequate opportunity for public input and comment.

(2) The state board shall hold no less than one public workshop in northern California, one public workshop in the Central Valley, and one public workshop in southern California to discuss the preliminary list. This requirement shall not apply to the funds appropriated in the 2007–08 fiscal year.

(3) After the requirements of paragraphs (1) and (2) are met, the state board shall adopt a final list of projects that will receive funding at a regularly scheduled public hearing.

(d) Nothing in this chapter authorizes the state board to program funds not appropriated by the Legislature.

39626.5. (a) A project shall not be funded pursuant to this chapter unless both of the following requirements are met:

(1) The project is sponsored by an applicant.

(2) The project is consistent with any comprehensive local or regional plans or strategies to reduce emissions from goods movement activities in its jurisdiction.

(b) Notwithstanding Section 16304.1 of the Government Code, an applicant receiving funds pursuant to this chapter shall have up to two years from the date that the funds are allocated to the applicant to award the contract for implementation of the project, or the funds shall revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation as provided in paragraph (2) of subdivision (c) of Section 8879.23

of the Government Code upon appropriation by the Legislature. Funds not liquidated within four years of the date of the award of the contract between the applicant and the contractor shall revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation as provided in paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code upon appropriation by the Legislature. Returned funds or unspent funds from obligated contracts received by the applicant prior to the end of the liquidation period shall revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation provided in paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code upon appropriation by the Legislature.

(c) Of the amount appropriated in Item 3900–001–6054 of the Budget Act of 2007, not more than twenty-five million dollars (\$25,000,000) shall be available to the state board for the purpose of executing grant agreements directly with ports, railroads, or local air districts for eligible projects to achieve the earliest possible health risk reduction from the emission sources identified in subdivision (c) of Section 39625.1. It is the intent of the Legislature that funds allocated pursuant to this subdivision be distributed pursuant to the guidelines adopted by the state board under Section 39626, and that the board provide sufficient opportunity for the public to review and comment on any projects proposed to be funded pursuant to this subdivision.

39627. The state board may seek reimbursement for program administration costs annually through an appropriation in the Budget Act from funds available pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code.

39627.5. The state board shall submit an annual report to the Legislature summarizing its activities related to the administration of this chapter with the Governor’s proposed budget, on January 10, for the ensuing fiscal year. The summary shall, at a minimum, include a description of projects funded pursuant to this chapter, the amount of funds allocated for each project, the location of each project, the status of each project, and a quantitative description of the emissions reductions achieved through the project or program.

SEC. 3. Chapter 10 (commencing with Section 44299.90) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 10. CALIFORNIA CLEAN SCHOOLBUS PROGRAM

44299.90. The Legislature finds and declares as follows:

(a) Diesel emissions from schoolbuses contribute to significant health and safety risk to children, cause air pollution, and contribute to greenhouse gas emissions.

(b) The intent of this chapter is to ensure funds made available by the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 are equitably distributed among geographic regions to retrofit and replace older and higher polluting schoolbuses in furtherance of improving air quality and protecting public health.

44299.901. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the following terms have the following meanings:

(1) “Administrative agency” means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, as specified in subdivision (c).

(2) Unless otherwise specified in this chapter, “project” includes equipment purchase, right-of-way acquisition, and project delivery costs.

(3) “Recipient agency” means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code that is responsible for implementation of an approved project.

(4) “Fund” shall have the meaning as defined in subdivision (c) of Section 8879.20 of the Government Code.

(b) Administrative costs, including audit and program oversight costs for the agency administering the program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the program’s costs.

(c) The State Air Resources Board is the administrative agency for the schoolbus retrofit and replacement allocation pursuant to subdivision (d) of Section 8879.23 of the Government Code.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), and shall do all of the following:

- (1) Provide for audit of project expenditures and outcomes.
- (2) Require that the useful life of the project be identified as part of the project nomination process.
- (3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

44299.91. Of the funds appropriated pursuant to Item 3900-001-6053 of Section 2.00 of the Budget Act of 2007, the State Air Resources Board shall allocate the funds in accordance with all of the following:

(a) All schoolbuses in operation in the state of model year 1976 or earlier shall be replaced.

(b) (1) The funds remaining after the allocation made pursuant to subdivision (a) shall be apportioned to local air quality management districts and air pollution control districts based on the number of schoolbuses of model years 1977 to 1986, inclusive, that are in operation within each district.

(2) Each district shall determine the percentage of its allocation to spend between replacement of schoolbuses of model years 1977 to 1986, inclusive, and retrofit of schoolbuses of any model year. Of the funds spent by a district for replacement of schoolbuses pursuant to this paragraph, a district shall replace the oldest schoolbuses of model years 1977 to 1986, inclusive, within the district. Of the funds spent by a district for retrofit of schoolbuses pursuant to this paragraph, a district shall retrofit the most polluting schoolbuses within the district.

(c) All schoolbuses replaced pursuant to this section shall be scrapped.

(d) These funds shall be administered by either the California Energy Commission or the local air district.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the transportation programs funded by voter-approved bonds as efficiently and expeditiously as possible, it is necessary that this act take effect immediately.

Approved _____, 2007

Governor