

AMENDED IN ASSEMBLY JUNE 2, 2009

AMENDED IN ASSEMBLY MAY 19, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 672

Introduced by Assembly Members Bass and Eng

February 25, 2009

An act to amend Section 8879.72 of, and to add Section 8879.501 to, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 672, as amended, Bass. Transportation: bond-funded projects: letter of no prejudice.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion of general obligation bonds for various transportation purposes. Existing law designates the state agency responsible for programming bond funds under the act as the administrative agency for those purposes.

This bill would authorize a regional or local agency that is a lead agency for a project or project component for which bond funding has been programmed, ~~allocated,~~ or otherwise approved by the administrative agency or is otherwise targeted to be available, as specified, to apply to the administrative agency for a letter of no prejudice that would ~~allow~~ *make* the regional or local agency *eligible*

to ~~expend funds~~ *be subsequently reimbursed from bond funds for expenditures of funds under its control* for the project or project component, ~~subject to later reimbursement from bond proceeds~~ under certain conditions, as specified.

Existing law requires the California Transportation Commission to establish the funding shares for applicants for funds from the State-Local Partnership Account in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Fund of 2006.

This bill would require the commission, prior to the commencement of each funding cycle, to calculate the amount of bond funds designated to be ~~deposited~~ *deposited* in the account that have not been appropriated and would ~~authorize~~ *require* the commission to establish projected targets for the ~~allocation~~ *distribution* of those funds for purposes of planning projects for which letters of no prejudice may be issued, as specified.

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. It is the intent of the Legislature in enacting this
2 act to enhance the ability of regional and local government entities
3 to deliver critical transportation capital improvement projects in
4 an expeditious manner.

5 SEC. 2. Section 8879.501 is added to the Government Code,
6 to read:

7 8879.501. (a) A regional or local agency that is a lead applicant
8 agency for a project that may be funded pursuant to Chapter 12.49
9 (commencing with Section 8879.20), other than a project that may
10 be funded pursuant to paragraph (1) of subdivision (j) of Section
11 8879.23, may apply to the administrative agency for a letter of no
12 prejudice for the project or a component of the project.

13 The administrative agency may approve the letter of no prejudice
14 for one or more projects or project components that the
15 administrative agency has programmed, ~~allocated~~, or otherwise
16 approved for funding. The letter of no prejudice shall reference
17 the project or component thereof and the amount of bond funding
18 that is programmed, ~~allocated~~, or otherwise approved for that
19 project or project component or, in the case of a project or project
20 component eligible for funding under subdivision (g) of Section

1 8879.23, the letter may reference the amount of bond funding
2 targeted to be received by the regional or local agency pursuant
3 to subdivision (f) of Section 8879.72. The administrative agency
4 may approve a letter of no prejudice regardless of whether bond
5 funding has been previously appropriated for purposes of the
6 project or project component. ~~The letter of no prejudice shall~~
7 ~~indicate that reimbursement of funds to a regional or local agency~~
8 ~~is dependent on availability of bond funds and the amount to be~~
9 ~~reimbursed may decrease or be less than the amount stated in the~~
10 ~~letter.~~

11 (b) Expenditures for the costs, up to the amount set forth in the
12 letter of no prejudice, of a project or project component for which
13 a letter of no prejudice has been issued shall be eligible for
14 reimbursement from the applicable bond proceeds fund or account
15 if all of the following apply:

16 (1) The project or project component for which the letter of no
17 prejudice was requested has commenced and *the regional or local*
18 *expenditures have been incurred.*

19 (2) The expenditures made by the regional or local agency are
20 eligible for reimbursement in accordance with state and federal
21 laws and procedures, and are permitted expenditures under the
22 applicable provisions of Chapter 12.49 (commencing with Section
23 8879.20). If expenditures made are determined to be ineligible,
24 then the state has no obligation to reimburse for those expenditures.

25 (3) The regional or local agency complies with all legal
26 requirements for the project, including the requirements of the
27 California Environmental Quality Act (Division 13 (commencing
28 with Section 21000) of the Public Resources Code).

29 (4) ~~The expenditures were incurred after applicable letter of no~~
30 ~~prejudice was issued~~ *the project or project component was*
31 *programmed or otherwise approved for funding by the*
32 *administrative agency.*

33 (5) There is in the applicable bond proceeds fund or account
34 under Chapter 12.49 (commencing with Section 8879.20) an
35 appropriated amount sufficient to make the reimbursement
36 payment. Nothing in this section requires any bond proceeds fund
37 or account to be funded at any particular time or in any particular
38 amount.

1 (c) The administrative agency and the regional or local agency
2 may enter into an agreement or agreements governing
3 reimbursement as described in this section.

4 (d) The administrative agency, in consultation with regional
5 and local agencies, may develop guidelines to implement this
6 section.

7 (e) Nothing in this section modifies any requirement under
8 Chapter 12.49 (commencing with Section 8879.23).

9 (f) For purposes of this section, “letter of no prejudice” means
10 an agreement between a regional or local agency and the
11 ~~administrative agency that allows the regional or local agency to~~
12 ~~expend its own funds, subject to reimbursement of bond proceeds,~~
13 ~~as provided in this section.~~ *administrative agency that makes*
14 *eligible for future reimbursement from bond proceeds the*
15 *expenditure of funds under the control of the regional or local*
16 *agency, subject to availability of bond funds, as provided in this*
17 *section. The timing and final amount of reimbursement is dependent*
18 *on the terms of the agreement and the availability of bond funds.*
19 *The final amount of reimbursement may be less than the amount*
20 *stated in the letter of no prejudice.*

21 SEC. 3. Section 8879.72 of the Government Code is amended
22 to read:

23 8879.72. (a) To establish the funding shares for each eligible
24 applicant described in paragraph (1) of subdivision (a) of Section
25 8879.71, the commission shall do the following prior to the
26 commencement of a funding cycle:

27 (1) Determine the total amount of annual revenue generated
28 from voter-approved sales taxes, voter-approved parcel or property
29 taxes, and voter-approved bridge tolls dedicated to transportation
30 improvements according to the most recent available data reported
31 to the State Board of Equalization, the Controller, or the Bay Area
32 Toll Authority.

33 (2) Establish a northern California and southern California share
34 by attributing the proportional share of revenues from
35 voter-approved sales taxes, voter-approved parcel or property
36 taxes, and voter-approved bridge tolls dedicated to transportation
37 improvements and imposed in counties in northern California to
38 the northern share, and by attributing the proportional share of
39 revenues from voter-approved sales taxes imposed in counties
40 located in southern California to the southern share. The

1 determination of whether a county is located in northern or southern
2 California shall be based on the definitions set forth in Section 187
3 of the Streets and Highways Code.

4 (3) Program funds made available to the southern share, based
5 on the determination in paragraph (2), shall be distributed to the
6 entity responsible for programming and allocating revenues from
7 the sales tax in proportion to the population of the county in which
8 the entity is located compared to the total population of southern
9 California counties with voter-approved sales taxes dedicated to
10 transportation improvements. For the purpose of calculating
11 population, the commission shall use the most recent information
12 available from the Department of Finance.

13 (4) Program funds made available to the northern share, based
14 on the determination in paragraph (2), shall be distributed as
15 follows:

16 (A) Program funds generated by voter-approved bridge tolls
17 and voter-approved parcel or property taxes dedicated to
18 transportation improvements shall be distributed to the entity
19 responsible for programming and allocating revenues from the toll
20 or tax based on the proportional share of revenues generated by
21 the toll or tax by that entity in comparison to the total revenues
22 generated by voter-approved sales taxes, voter-approved parcel or
23 property taxes, and voter-approved bridge tolls dedicated to
24 transportation improvements in northern California.

25 (B) Program funds generated by voter-approved sales taxes
26 dedicated to transportation improvements shall be distributed to
27 the entity responsible for programming and allocating revenues
28 from the sales tax in proportion to the population of the county in
29 which the entity is located compared to the total population of the
30 northern California counties with voter-approved sales taxes
31 dedicated to transportation improvements. For the purposes of
32 calculating population, the commission shall use the most recent
33 information available for the Department of Finance

34 (b) Under this section, each fiscal year in which funds are
35 appropriated for the program shall constitute a funding cycle.

36 (c) Each eligible applicant desiring to participate in the program
37 in any funding cycle under this section shall submit to the
38 commission all of the following:

- 1 (1) A description of the eligible project nominated for funding,
2 including a description of the project's cost, scope, and specific
3 improvements and benefits it is anticipated to achieve.
- 4 (2) A description of the project's current status, including the
5 phase of delivery the project is in at the time it is nominated for
6 funding and a schedule for the project's completion.
- 7 (3) A description of how the project would support
8 transportation and land use planning goals within the region.
- 9 (4) The amount of eligible local matching funds the applicant
10 is committing to the project.
- 11 (5) The amount of program funds the applicant seeks from the
12 program for the project.
- 13 (d) The commission shall review nominated projects under this
14 section and their accompanying documentation to ensure that each
15 nominated project meets the requirements of this article and to
16 confirm that each project has a commitment of the requisite amount
17 of eligible local matching funds as required in this article. Upon
18 conducting the review of the requirements and determining the
19 proposed projects to be in compliance with this article, the projects
20 shall be deemed eligible.
- 21 (e) An eligible applicant that is identified to receive an allocation
22 of funds under this section, but that does not submit a project for
23 funding in a funding cycle, may utilize its funding share in a
24 subsequent funding cycle.
- 25 (f) In addition to the requirements in subdivision (a), the
26 commission shall, prior to the commencement of a funding cycle,
27 calculate the amount of bond funds specified in subdivision (g) of
28 Section 8879.23 that have not been appropriated and ~~may shall~~
29 establish, using the distribution formula set forth in subdivision
30 (a) of Section 8879.71, projected targets for the ~~allocation~~
31 *distribution* of those funds for the purpose of planning consistent
32 with Section 8879.501. The commission shall annually review and
33 revise these projected targets.