

ASSEMBLY BILL

No. 1072

Introduced by Assembly Member Eng

February 27, 2009

An act to amend Section 8879.55 of, and to repeal Section 8879.56 of, the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as introduced, Eng. Public Transportation Modernization, Improvement, and Service Enhancement Account.

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 transportation purposes, including \$4 billion for allocation to various public transportation purposes. Of this amount, \$3.6 billion is to be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) for allocation, upon appropriation, to transit operators and other agencies for transit purposes. Existing law specifies the process for allocating available funds in the PTMISEA for those purposes appropriated in the Budget Act of 2008. Existing law makes these provisions inoperative on July 1, 2009, and repeals them on January 1, 2010.

This bill would apply these provisions to funds appropriated for these purposes from the PTMISEA by the Budget Act of 2009 and subsequent fiscal years and would make other conforming changes. The bill would require eligible project sponsors to provide the Department of Transportation with project descriptions for projects they plan to fund with PTMISEA funds yet to be appropriated for the duration of the

PTMISEA program. The bill would delete the inoperative and repeal dates, thereby extending the operation of these provisions indefinitely.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 8879.55 of the Government Code is
2 amended to read:

3 8879.55. For funds appropriated for fiscal year ~~2008-09~~
4 ~~2009-10~~ or any subsequent fiscal year in the ~~budget act of 2008~~
5 ~~annual Budget Act~~ from the Public Transportation Modernization,
6 Improvement, and Service Enhancement Account (PTMISEA),
7 established pursuant to paragraph (1) of subdivision (f) of Section
8 8879.23, *for the purposes of paragraph (3) of that subdivision*, the
9 following shall apply:

10 (a) (1) Upon appropriation of funds from PTMISEA, the
11 Controller shall identify and develop a list of eligible project
12 sponsors, as defined in paragraph (2) of subdivision (h), and the
13 amount each is eligible to receive pursuant to the formula in
14 paragraph (3) of subdivision (f) of Section 8879.23. ~~It is the intent~~
15 ~~of the Legislature that funds~~ *Funds* allocated to project sponsors
16 pursuant to this section *shall* provide each project sponsor with
17 the same proportional share of funds as the proportional share each
18 received from the allocation of State Transit Assistance funds,
19 pursuant to Sections 99313 and 99314 of the Public Utilities Code,
20 over fiscal years 2004-05, 2005-06, and 2006-07. *This formula*
21 *shall apply to the remaining balance of funds in the PTMISEA*
22 *program.*

23 (2) In establishing the amount of funding each project sponsor
24 is eligible to receive from funds to be allocated based on Section
25 99313 of the Public Utilities Code, the Controller shall make the
26 following computations:

27 (A) For each project sponsor, compute the amounts of State
28 Transit Assistance funds allocated to that entity pursuant to Section
29 99313 of the Public Utilities Code during the 2004-05, 2005-06,
30 and 2006-07 fiscal years.

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

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

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

8 (3) In establishing the amount of funding each project sponsor
9 is eligible to receive from funds to be allocated based on Section
10 99314 of the Public Utilities Code, the Controller shall make the
11 following computations:

12 (A) For each project sponsor, compute the amounts of State
13 Transit Assistance funds allocated to that entity pursuant to Section
14 99314 of the Public Utilities Code during the 2004–05, 2005–06,
15 and 2006–07 fiscal years.

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

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

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

23 (4) The Controller shall notify project sponsors of the amount
24 of funding each is eligible to receive from *the funds appropriated*
25 *from PTMISEA for the 2008–09 in each* fiscal year based on *actual*
26 *appropriations and* the computations pursuant to subparagraph
27 (D) of paragraph (2) and subparagraph (D) of paragraph (3).

28 (b) Prior to seeking a disbursement of funds for an eligible
29 PTMISEA capital project, a project sponsor on the list developed
30 pursuant to paragraph (1) of subdivision (a) shall submit to the
31 department a description of the proposed capital project or projects
32 it intends to fund with PTMISEA funds ~~for fiscal year 2008–09~~
33 *in the current fiscal year*. The description shall include all of the
34 following:

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

37 (2) The useful life of the project, which shall not be less than
38 the required useful life for capital assets pursuant to the State
39 General Obligation Bond Law (Chapter 4 (commencing with

1 Section 16720) of Part 3 of Division 4 of Title 2), specifically
2 subdivision (a) of Section 16727.

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

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

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

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

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

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

21 (d) (1) Upon conducting the review required in subdivision (c)
22 and determining the proposed projects to be in compliance with
23 the requirements of that subdivision, the department shall
24 biannually adopt a list of projects eligible for an allocation from
25 the funds appropriated to the account in *the applicable* fiscal year
26 ~~2008-09~~.

27 (2) Upon adoption of the list by the department, the department
28 shall provide the list of projects eligible for funding *in the current*
29 *fiscal year* to the Controller.

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

37 (f) The audit of public transportation operator finances already
38 required under the Transportation Development Act pursuant to
39 Section 99245 of the Public Utilities Code shall be expanded to
40 include verification of receipt and appropriate expenditure of bond

1 funds pursuant to this section. Each sponsoring entity receiving
2 bond funds from this account in a fiscal year for which an audit is
3 conducted shall transmit a copy of the audit to the department, and
4 the department shall make the audits available to the Legislature
5 and the Controller for review on request.

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

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

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

29 (2) "Project sponsor" means a transit operator, including a rail
30 transit, commuter rail, bus, or waterborne transit operator, eligible
31 to receive an allocation of funds under the State Transit Assistance
32 program pursuant to Sections 99314 and 99314.3 of the Public
33 Utilities Code, or a local agency, including a transportation
34 planning agency, county transportation commission, or the San
35 Diego Metropolitan Transit Development Board, eligible to receive
36 an allocation of funds under the State Transit Assistance program
37 pursuant to Section 99313 of the Public Utilities Code.

38 (i) A project sponsor that is identified to receive an allocation
39 of funds under this section *in a particular fiscal year*, but that does

1 not submit a project for funding in ~~the 2008-09~~ *that* fiscal year,
2 may utilize its funding share in a subsequent fiscal year.

3 *(j) Prior to seeking a disbursement of funds in the 2009-10*
4 *fiscal year, a project sponsor shall also submit to the department*
5 *a description of the projects it intends to fund with PTMISEA funds*
6 *that have yet to be appropriated.*

7 SEC. 2. Section 8879.56 of the Government Code is repealed.

8 ~~8879.56. This article shall become inoperative on July 1, 2009,~~
9 ~~and, as of January 1, 2010, is repealed, unless a later enacted~~
10 ~~statute, that becomes operative on or before January 1, 2010,~~
11 ~~deletes or extends the dates on which it becomes inoperative and~~
12 ~~is repealed.~~

13 SEC. 3. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 In order to make statutory changes relative to provisions
18 governing transportation funds to implement the Budget Act of
19 2009, it is necessary that this act take effect immediately.