

**Introduced by Senator Ashburn**January 26, 2010

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 901, as introduced, Ashburn. 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. Existing law authorizes a regional or local agency that is a lead agency for a project or project component, other than specified grade separation and railroad crossing projects, for which bond funding has been programmed 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 makes the regional or local agency eligible to be subsequently reimbursed from bond funds for expenditures of funds under its control for the project or project component under certain conditions, as specified.

This bill would also authorize those regional and local agencies to apply to the administrative agency for a letter of no prejudice that would make the regional or local agencies eligible to be subsequently reimbursed from bond funds for expenditures of funds under their control for grade separation and railroad crossing projects, 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. Section 8879.501 of the Government Code is  
2 amended to read:

3 8879.501. (a) A regional or local agency that is a lead applicant  
4 agency for a project that may be funded pursuant to Chapter 12.49  
5 (commencing with Section 8879.20), ~~other than a project that may~~  
6 ~~be funded pursuant to paragraph (1) of subdivision (j) of Section~~  
7 ~~8879.23~~, may apply to the administrative agency for a letter of no  
8 prejudice for the project or a component of the project. The  
9 administrative agency may approve the letter of no prejudice for  
10 one or more projects or project components that the administrative  
11 agency has programmed or otherwise approved for funding. The  
12 letter of no prejudice shall reference the project or component  
13 thereof and the amount of bond funding that is programmed or  
14 otherwise approved for that project or project component or, in  
15 the case of a project or project component eligible for funding  
16 under subdivision (g) of Section 8879.23, the letter may reference  
17 the amount of bond funding targeted to be received by the regional  
18 or local agency pursuant to subdivision (f) of Section 8879.72.  
19 The administrative agency may approve a letter of no prejudice  
20 regardless of whether bond funding has been previously  
21 appropriated for purposes of the project or project component.

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

27 (1) The project or project component for which the letter of no  
28 prejudice was requested has commenced and the regional or local  
29 expenditures have been incurred.

30 (2) The expenditures made by the regional or local agency are  
31 eligible for reimbursement in accordance with state and federal  
32 laws and procedures, and are permitted expenditures under the  
33 applicable provisions of Chapter 12.49 (commencing with Section  
34 8879.20). If expenditures made are determined to be ineligible,  
35 then the state has no obligation to reimburse for those expenditures.

36 (3) The regional or local agency complies with all legal  
37 requirements for the project, including the requirements of the

1 California Environmental Quality Act (Division 13 (commencing  
2 with Section 21000) of the Public Resources Code).

3 (4) The expenditures were incurred after the project or project  
4 component was programmed or otherwise approved for funding  
5 by the administrative agency.

6 (5) There is in the applicable bond proceeds fund or account  
7 under Chapter 12.49 (commencing with Section 8879.20) an  
8 appropriated amount sufficient to make the reimbursement  
9 payment. Nothing in this section requires any bond proceeds fund  
10 or account to be funded at any particular time or in any particular  
11 amount.

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

15 (d) The administrative agency, in consultation with regional  
16 and local agencies, may develop guidelines to implement this  
17 section.

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

20 (f) For purposes of this section, “letter of no prejudice” means  
21 an agreement between a regional or local agency and the  
22 administrative agency that makes eligible for future reimbursement  
23 from bond proceeds the expenditure of funds under the control of  
24 the regional or local agency, subject to availability of bond funds,  
25 as provided in this section. The timing and final amount of  
26 reimbursement is dependent on the terms of the agreement and the  
27 availability of bond funds. The final amount of reimbursement  
28 may be less than the amount stated in the letter of no prejudice.