

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 427**

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**Introduced by Assembly Member John A. Pérez**

February 14, 2011

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An act to amend Sections 8879.57 and 8879.61 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 427, as amended, John A. Pérez. Transportation bond funds: transit system safety.

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 specified purposes. Existing law requires the deposit of \$1 billion of the bond proceeds in the Transit System Safety, Security, and Disaster Response Account to be used, upon appropriation, for capital projects that provide increased protection against a security and safety threat, and for 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 that movement. Existing law designates the California Emergency Management Agency as the administrative agency for this account and requires the allocation of 60% of the funds in the account for capital expenditures to ~~transportation planning agencies, county transportation commissions, and certain other transit-related agencies, as specified~~ *transit operators and other transportation agencies using the allocation*

*formulas applicable to the State Transit Assistance Program, and 15% of the funds for capital expenditures to specified intercity passenger rail systems and commuter rail systems. Existing law requires allocation of the 60% share of funds based on 2 different formulas also used for the State Transit Assistance program, with 50% of available funds allocated based on population and the remaining 50% based on operator revenue. Existing law provides that operators entities that receive those bond funds from the 15% share for intercity passenger rail systems and commuter rail systems are not eligible for those the 60% share of funds designated for capital expenditures of transportation planning agencies, county transportation commissions, and other specified transit-related agencies.*

*This bill would instead authorize operators that receive funds from the account for intercity passenger rail systems and commuter rail systems to also be eligible for funds designated for capital expenditures of transportation planning agencies, county transportation commissions, and other specified transit-related agencies provide that commuter rail operators eligible to receive State Transit Assistance funds are also eligible to receive funds from the 60% share of Transit System Safety, Security, and Disaster Response Account funds. The bill would require funds that otherwise would be allocated based on operator revenue for the Southern California Regional Rail Authority (SCRRA) to be allocated to the applicable county transportation commission. The bill would authorize the applicable commission to allocate those funds to eligible purposes, including eligible projects of the SCRRA, or to suballocate those funds to the SCRRA. This bill would delete the provision making intercity and commuter rail entities receiving bond funds from the 15% share of funds ineligible for the 60% share of funds. The*

*The bill would require an entity eligible to receive allocations of any of those funds to submit a document within a specified time to the California Emergency Management Agency that indicates the intent to use the funds and would, if the document is not submitted, authorize the California Emergency Management Agency to reallocate the funds. The bill would require the California Emergency Management Agency to notify a transportation planning agency if funds allocated to an entity within the region of the transportation planning agency are being reallocated and, if the transportation planning agency provides a document to the California Emergency Management Agency indicating its intent to distribute the funds to transit operators or rail operators,*

would require the funds to be allocated to the transportation planning agency. The bill would authorize the California Emergency Management Agency to allocate the funds on a competitive basis to an eligible entity in a different region of the state if the transportation planning agency does not receive an allocation to distribute funds to transit operators and rail operators provide the required documentation, as specified.

The bill would require the California Emergency Management Agency, by May 1 of each year, to report to specified committees of the Legislature and to the Legislative Analyst’s Office with specified information regarding projects selected for funding from the account, including a list of transit entities that have not used those allocated funds.

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 8879.57 of the Government Code is  
2 amended to read:  
3 8879.57. Funds made available, upon appropriation of the  
4 Legislature, from the Transit System Safety, Security, and Disaster  
5 Response Account, created in subdivision (h) of Section 8879.23,  
6 shall be allocated as follows:  
7 (a) (1) Sixty percent of available funds shall be allocated for  
8 capital expenditures to agencies and transit operators eligible to  
9 receive State Transit Assistance funds pursuant to using the formula  
10 in Sections 99313 and 99314 of the Public Utilities Code, including  
11 commuter rail operators eligible to receive State Transit Assistance  
12 funds. Of these funds, 50 percent shall be allocated to eligible  
13 agencies using the formula in Section 99314 of the Public Utilities  
14 Code, and 50 percent shall be allocated to eligible agencies using  
15 the formula in Section 99313 of the Public Utilities Code, subject  
16 to the provisions governing funds allocated under those sections.  
17 Funds allocated to the Metropolitan Transportation Commission  
18 pursuant to using the formula in Section 99313 of the Public  
19 Utilities Code shall be suballocated to transit operators within its  
20 jurisdiction pursuant to using the formula in Section 99314 of the  
21 Public Utilities Code. In the region served by the multicounty  
22 transportation planning agency described in Section 130004 of  
23 the Public Utilities Code, funds that are to be allocated using the

1 *formula in Section 99314 of the Public Utilities Code for the*  
2 *Southern California Regional Rail Authority shall be allocated to*  
3 *the applicable county transportation commission in each county*  
4 *served by the authority within that region. The county*  
5 *transportation commission, subject to the applicable provisions*  
6 *governing funds allocated under that section that are consistent*  
7 *with this section, shall use or allocate the funds for eligible capital*  
8 *expenditures as described in paragraph (2), including, but not*  
9 *limited to, eligible expenditures on the system of the Southern*  
10 *California Regional Rail Authority. The county transportation*  
11 *commission may suballocate these funds to the Southern California*  
12 *Regional Rail Authority for those purposes.*

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

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

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

21 (ii) Explosive device mitigation and remediation equipment.

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

24 (iv) Interoperable communications equipment.

25 (v) Physical security enhancement equipment.

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

30 (vii) Other *safety- or security-related* projects approved by the  
31 California Emergency Management Agency.

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

37 (b) (1) Twenty-five percent of available funds shall be allocated  
38 for capital expenditures to regional public waterborne transit  
39 agencies authorized to operate a regional public water transit  
40 system, including the operation of water transit vessels, terminals,

1 and feeder buses, and not otherwise eligible to receive State Transit  
2 Assistance funds as of the effective date of this article. Funds shall  
3 be allocated for eligible capital expenditures that enhance the  
4 capacity of regional public waterborne transit agencies to provide  
5 disaster response transportation systems that can move people,  
6 goods, and emergency personnel and equipment in the aftermath  
7 of a disaster or emergency.

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

19 (c) (1) Fifteen percent of available funds shall be made available  
20 for capital expenditures to the intercity passenger rail system  
21 described in Section 14035 and to the commuter rail systems  
22 operated by the entities specified in Section 14072 and in Section  
23 99314.1 of the Public Utilities Code.

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

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

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

32 (ii) Explosive device mitigation and remediation equipment.

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

35 (iv) Interoperable communications equipment.

36 (v) Physical security enhancement equipment.

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

1 (vii) Other *safety- or security-*related projects approved by the  
2 California Emergency Management Agency.

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

8 (d) (1) An entity that is eligible to receive funds pursuant to  
9 subdivision (a) or (c) shall, within 45 days of the date the Controller  
10 makes public the list of eligible recipients pursuant to Section  
11 8879.58, provide a document to the California Emergency  
12 Management Agency that indicates the intent to use those funds.  
13 If the entity does not submit the document required under this  
14 paragraph, the funds allocated to the entity pursuant to subdivision  
15 (a) or (c) shall be reallocated by the California Emergency  
16 Management Agency in accordance with paragraph (2). This  
17 paragraph also applies to transit operators receiving a suballocation  
18 from a transportation planning agency, in which case the operator  
19 rather than the transportation planning agency is required to provide  
20 the document.

21 (2) The California Emergency Management Agency shall notify  
22 the transportation planning agency if funds allocated to an entity  
23 within the region of the transportation planning agency are being  
24 reallocated pursuant to paragraph (1). The transportation planning  
25 agency shall have 30 days to provide a document to the California  
26 Emergency Management Agency indicating its intent to distribute  
27 those funds to transit operators or rail operators for purposes  
28 authorized under subdivision (a) or (c). An agency providing that  
29 document shall receive an allocation of the funds. If the  
30 transportation planning agency does not provide the document  
31 within 30 days, the California Emergency Management Agency  
32 may allocate the funds on a competitive basis to an entity in a  
33 different region of the state that is an eligible entity under  
34 subdivision (a) or (c). An eligible entity that is notified that it will  
35 be awarded these funds shall, as a condition of receiving the funds,  
36 satisfy the requirements of paragraph (1) within 45 days of being  
37 advised of the reallocation. As used in this subdivision,  
38 “transportation planning agency” includes the county transportation  
39 commission in counties that have such a commission.

1 SEC. 2. Section 8879.61 of the Government Code is amended  
2 to read:

3 8879.61. (a) Entities described in subdivisions (a), (b), and  
4 (c) of Section 8879.57 receiving an allocation of funds pursuant  
5 to this article shall expend those funds within three fiscal years of  
6 the fiscal year in which the funds were allocated. Funds remaining  
7 unexpended thereafter shall revert to the California Emergency  
8 Management Agency, as applicable, for reallocation in subsequent  
9 fiscal years.

10 (b) Entities that receive grant awards from funds allocated  
11 pursuant to subdivision (b) of Section 8879.57 are not eligible to  
12 receive awards from the funds allocated pursuant to subdivision  
13 (a) of Section 8879.57.

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

17 (d) On or before May 1 of each year, the California Emergency  
18 Management Agency shall report to the Senate Committee on  
19 Budget and Fiscal Review, the Assembly Committee on Budget,  
20 the Senate Committee on Transportation and Housing, the  
21 Assembly Committee on Transportation, and the Legislative  
22 Analyst's Office on its activities under this article. The report shall  
23 include a summary of the projects selected for funding during the  
24 fiscal year in which awards were made, the status of projects  
25 selected for funding in prior fiscal years, and a list of all transit  
26 entities that have not used funds allocated to the transit entities  
27 pursuant to Section 8879.57.