

Assembly Bill No. 427

Passed the Assembly August 31, 2011

Chief Clerk of the Assembly

Passed the Senate August 29, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 427, 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 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 entities that receive bond funds from the 15% share for intercity passenger rail systems and commuter rail systems are not eligible for the 60% share of funds.

This bill would 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 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, the project or projects for which the funds will be used, and a schedule of funds to be drawn down, and would, if the document is not submitted, authorize the California Emergency Management Agency to reallocate the funds pursuant to guidelines established by the agency. 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 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.

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

SECTION 1. Section 8879.57 of the Government Code is amended to read:

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 using the formula in Sections 99313 and 99314 of the Public Utilities Code, including commuter rail operators eligible to receive State Transit Assistance funds. 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 using the formula in Section 99313 of the Public Utilities Code shall be suballocated to transit operators within its jurisdiction using the formula in Section 99314 of the Public Utilities Code. In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, funds that are to be allocated using the formula in Section 99314 of the Public Utilities Code for the Southern California Regional Rail Authority shall be allocated to the applicable county transportation commission in each county served by the authority within that region. The county transportation commission, subject to the applicable provisions governing funds allocated under that section that are consistent with this section, shall use or allocate the funds for eligible capital expenditures as described in paragraph (2), including, but not limited to, eligible expenditures on the system of the Southern California Regional Rail Authority. The county transportation commission may suballocate these funds to the Southern California Regional Rail Authority for those purposes.

(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 safety- or security-related projects approved by the California Emergency Management Agency.

(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.

(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 safety- or security-related projects approved by the California Emergency Management Agency.

(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.

(d) (1) An entity that is eligible to receive funds pursuant to subdivision (a) or (c) shall, within 45 days of the date the Controller makes public the list of eligible recipients pursuant to Section 8879.58, provide a document, in a form as designated by the California Emergency Management Agency, to the California Emergency Management Agency that indicates the intent to use those funds, the project or projects for which the funds will be used, and a schedule of funds to be drawn down. If the entity does not submit the document required under this paragraph, the funds allocated to the entity pursuant to subdivision (a) or (c) shall be reallocated by the California Emergency Management Agency in accordance with paragraph (2). This paragraph also applies to transit operators receiving a suballocation from a transportation

planning agency, in which case the operator rather than the transportation planning agency is required to provide the document.

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

(3) The formula that applies to State Transit Assistance funds shall not apply to a reallocation of funds under this subdivision.

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

8879.61. (a) (1) 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 the California Emergency Management Agency for reallocation under this article in subsequent fiscal years.

(2) Notwithstanding paragraph (1), for an allocation of funds made prior to June 30, 2011, to an entity described in subdivision (b) of Section 8879.57, that entity shall have four fiscal years from the last day of the fiscal year in which the funds were received by that entity to expend those funds.

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

(c) 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.

(d) On or before May 1 of each year, the California Emergency Management Agency shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Transportation and Housing, the Assembly Committee on Transportation, and the Legislative Analyst's Office on its 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, the status of projects selected for funding in prior fiscal years, and a list of all transit entities that have not used funds allocated to the transit entities pursuant to Section 8879.57.

Approved _____, 2011

Governor