

ASSEMBLY BILL

No. 2090

Introduced by Assembly Member Alejo

February 17, 2016

An act to amend Section 75230 of the Public Resources Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, as introduced, Alejo. Low Carbon Transit Operations Program.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates specified portions of the annual proceeds in the fund to various programs, including 5% for the Low Carbon Transit Operations Program, which provides operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities.

This bill would additionally authorize moneys appropriated to the program to be expended to support the operation of existing bus or rail service if the governing board of the requesting transit agency declares a fiscal emergency and other criteria are met, thereby expanding the scope of an existing continuous appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 75230 of the Public Resources Code is
2 amended to read:
3 75230. (a) The Low Carbon Transit Operations Program is
4 hereby created to provide operating and capital assistance for transit
5 agencies to reduce greenhouse gas emissions and improve mobility,
6 with a priority on serving disadvantaged communities.
7 (b) Funding for the program is continuously appropriated
8 pursuant to Section 39719 of the Health and Safety Code from the
9 Greenhouse Gas Reduction ~~Fund~~ *Fund*, established pursuant to
10 Section 16428.8 of the Government Code.
11 (c) Funding shall be allocated by the Controller consistent with
12 the requirements of this part and with Section 39719 of the Health
13 and Safety Code, upon a determination by the Department of
14 Transportation that the expenditures proposed by a transit agency
15 meet the requirements of this part and guidelines developed
16 pursuant to subdivision (f), and *that* the amount of funding
17 requested ~~that~~ is currently available.
18 (d) (1) Moneys for the program shall be expended to provide
19 transit operating or capital assistance that meets all of the following
20 criteria:
21 (1)
22 (A) Expenditures supporting new or expanded bus or rail
23 services, new or expanded water-borne transit, or expanded
24 intermodal transit facilities, and may include equipment acquisition,
25 fueling, and maintenance, and other costs to operate those services
26 or facilities.
27 (2)
28 (B) The recipient transit agency demonstrates that each
29 expenditure directly enhances or expands transit service to increase
30 mode share.
31 (3)
32 (C) The recipient transit agency demonstrates that each
33 expenditure reduces greenhouse gas emissions.

1 (2) (A) *Moneys for the program may additionally be expended*
2 *to support the operation of existing bus or rail service if all of the*
3 *following occurs:*

4 (i) *The governing board of the transit agency declares a fiscal*
5 *emergency, as defined in paragraph (2) of subdivision (d) of*
6 *Section 21080.32, within 90 days prior to the agency requesting*
7 *the funds.*

8 (ii) *The expenditure of the requested funds is necessary to*
9 *sustain the transit agency's transit service in the calendar year in*
10 *which the requested funds are to be expended.*

11 (iii) *The governing board of the transit agency would be*
12 *required to reduce or eliminate transit service if the requested*
13 *funds are not received.*

14 (iv) *The governing board makes a finding that a reduction in,*
15 *or elimination of, transit service would increase greenhouse gas*
16 *emissions because transit customers would choose other*
17 *less-efficient modes of transportation.*

18 (B) *Moneys allocated for the purpose of this paragraph shall*
19 *be expended to provide transit operating assistance that meets all*
20 *of the following criteria:*

21 (i) *The expenditures support current bus- or rail-service*
22 *operating costs and may include labor, fueling, maintenance, and*
23 *other costs to operate and maintain those services.*

24 (ii) *The recipient transit agency demonstrates that each*
25 *expenditure directly sustains transit service that would otherwise*
26 *be reduced or eliminated in the upcoming year if those funds were*
27 *not received.*

28 (iii) *The recipient transit agency does not request funds for these*
29 *purposes over consecutive funding years unless the transit agency*
30 *has declared a fiscal emergency in each year consistent with clause*
31 *(i) of subparagraph (A).*

32 (e) *For transit agencies whose service areas include*
33 *disadvantaged-~~communities~~ communities, as identified pursuant*
34 *to Section 39711 of the Health and Safety Code, at least 50 percent*
35 *of the total moneys received pursuant to this chapter shall be*
36 *expended on projects or services that meet the requirements of*
37 *subdivision (d) and benefit the disadvantaged communities,*
38 *consistent with the guidance developed by the State Air Resources*
39 *Board pursuant to Section 39715 of the Health and Safety Code.*

1 (f) The Department of Transportation, in coordination with the
2 State Air Resources Board, shall develop guidelines that describe
3 the methodologies that recipient transit agencies shall use to
4 demonstrate that proposed expenditures will meet the criteria in
5 subdivisions (d) and (e) and establish the reporting requirements
6 for documenting ongoing compliance with those criteria.

7 (g) ~~Chapter 3.5~~ *The Administrative Procedure Act (Chapter 3.5*
8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
9 *2 of the Government Code Code)* does not apply to the
10 development of guidelines for the program pursuant to this section.

11 (h) A transit agency shall submit the following information to
12 the Department of Transportation before seeking a disbursement
13 of funds pursuant to this part:

14 (1) A list of proposed expense types for anticipated funding
15 levels.

16 (2) The documentation required by the guidelines developed
17 pursuant to subdivision (f) to demonstrate compliance with
18 subdivisions (d) and (e).

19 (i) Before authorizing the disbursement of funds, ~~the department,~~
20 *Department of Transportation*, in coordination with the State Air
21 Resources Board, shall determine the eligibility, in whole or in
22 part, of the proposed list of expense types, based on the
23 documentation provided by the recipient transit agency to ensure
24 ongoing compliance with the guidelines developed pursuant to
25 subdivision (f).

26 (j) ~~The department~~ *Department of Transportation* shall notify
27 the Controller of approved expenditures for each transit ~~agency;~~
28 *agency* and the amount of the allocation for each transit agency
29 determined to be available at that time of approval.

30 (k) The recipient transit agency shall provide annual reports to
31 the Department of Transportation, in the format and manner
32 prescribed by the department, consistent with the internal
33 administrative procedures for use of fund proceeds developed by
34 the State Air Resources Board.

35 (l) The Department of Transportation and recipient transit
36 agencies shall comply with the guidelines developed by the State
37 Air Resources Board pursuant to Section 39715 of the Health and
38 Safety Code to ensure that the requirements of Section 39713 of
39 the Health and Safety Code are met to maximize the benefits to

1 ~~disadvantaged communities~~ *communities*, as ~~described in~~ *identified*
2 *pursuant to* Section 39711 of the Health and Safety Code.

O