

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2090

Introduced by Assembly Member Alejo
(Coauthor: Senator Cannella)

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 amended, 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,~~ *moneys* 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, established pursuant to Section
10 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 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 (A) Expenditures supporting new or expanded bus or rail
22 services, new or expanded water-borne transit, or expanded
23 intermodal transit facilities, and may include equipment acquisition,
24 fueling, and maintenance, and other costs to operate those services
25 or facilities.

26 (B) The recipient transit agency demonstrates that each
27 expenditure directly enhances or expands transit service to increase
28 mode share.

29 (C) The recipient transit agency demonstrates that each
30 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 occur:

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 fiscal year in
10 which the requested funds are to be expended.

11 (iii) The governing board of the transit agency would be required
12 to reduce or eliminate transit service if the requested funds are not
13 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 (v) The transit agency does not request funds over consecutive
19 funding years unless the transit agency has declared a fiscal
20 emergency in each year consistent with clause (i).

21 (vi) The transit agency does not request funds for more than
22 three consecutive funding years.

23 (B) Moneys allocated for the purpose of this paragraph shall be
24 expended to provide transit operating assistance that meets both
25 of the following criteria:

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

29 (ii) The recipient transit agency demonstrates that each
30 expenditure directly sustains transit service that would otherwise
31 be reduced or eliminated in the upcoming year if those funds were
32 not received.

33 (e) For transit agencies whose service areas include
34 disadvantaged communities, as identified pursuant to Section
35 39711 of the Health and Safety Code, at least 50 percent of the
36 total moneys received pursuant to this chapter shall be expended
37 on projects or services that meet the requirements of subdivision
38 (d) and benefit the disadvantaged communities, consistent with
39 the guidance developed by the State Air Resources Board pursuant
40 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) 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) does not apply to the development of
10 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 of Transportation, in coordination with the State Air Resources
21 Board, shall determine the eligibility, in whole or in part, of the
22 proposed list of expense ~~types~~, *types* based on the documentation
23 provided by the recipient transit agency to ensure ongoing
24 compliance with the guidelines developed pursuant to subdivision
25 (f).

26 (j) The Department of Transportation shall notify the Controller
27 of approved expenditures for each transit agency and the amount
28 of the allocation for each transit agency determined to be available
29 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 *the* use of *the* fund proceeds
34 developed by 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, as identified pursuant to Section
- 2 39711 of the Health and Safety Code.

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