

**Introduced by Senator Beall**January 7, 2016

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An act to amend Section 75230 of, and to add Section 75231 to, the Public Resources Code, relating to transportation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 824, as introduced, Beall. Low Carbon Transit Operations Program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.

Existing law continuously appropriates specified portions of the annual proceeds in the Greenhouse Gas Reduction Fund to various programs, including 5% for the Low Carbon Transit Operations Program, for expenditures to provide transit operating or capital assistance consistent with specified criteria. Existing law provides for distribution of available funds under the program to recipient transit agencies by the Controller, upon approval of the recipient transit agency's proposed expenditures by the Department of Transportation.

This bill would authorize a recipient transit agency that does not submit a project for funding under the program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year. The bill would, in that regard, require the department to annually calculate a funding share for each eligible recipient transit agency. The bill would allow a recipient transit agency to loan or transfer its funding share in a particular fiscal year to another recipient transit agency, to pool its funding share with those of other recipient transit agencies, or

to apply to the department to reassign, to other eligible expenditures under the program, any savings of surplus moneys from an approved and completed expenditure under the program or from an approved expenditure that is no longer a priority, as specified. The bill would also allow a recipient transit agency to apply to the department for a letter of no prejudice for a capital project or component of a capital project for which the department has authorized a disbursement of funds, and if granted, would allow the recipient transit agency to expend its own moneys and to be eligible for future reimbursement from the program, under specified conditions. The bill would also require a recipient transit agency to provide additional information to the department to the extent funding is sought for capital projects.

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 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. *The Department of*  
11 *Transportation, based on the amount of funding available for the*  
12 *program each fiscal year, shall annually compute the funding*  
13 *share for each eligible recipient transit agency.*  
14 (c) Funding shall be allocated by the Controller consistent with  
15 the requirements of this part and with Section 39719 of the Health  
16 and Safety Code, upon a determination by the Department of  
17 Transportation that the expenditures proposed by a *recipient* transit  
18 agency meet the requirements of this part and guidelines developed  
19 pursuant to subdivision (f), and *that* the amount of funding  
20 requested ~~that~~ is currently available.  
21 (d) Moneys for the program shall be expended to provide transit  
22 operating or capital assistance that meets all of the following  
23 criteria:

1 (1) Expenditures supporting new or expanded bus or rail  
2 services, new or expanded water-borne transit, or expanded  
3 intermodal transit facilities, and may include equipment acquisition,  
4 fueling, and maintenance, and other costs to operate those services  
5 or facilities.

6 (2) The recipient transit agency demonstrates that each  
7 expenditure directly enhances or expands transit service to increase  
8 mode share.

9 (3) The recipient transit agency demonstrates that each  
10 expenditure reduces greenhouse gas emissions.

11 (e) For *recipient* transit agencies whose service areas include  
12 disadvantaged communities as identified pursuant to Section 39711  
13 of the Health and Safety Code, at least 50 percent of the total  
14 moneys received pursuant to this chapter shall be expended on  
15 projects or services that meet requirements of subdivision (d) and  
16 benefit the disadvantaged communities, consistent with the  
17 guidance developed by the State Air Resources Board pursuant to  
18 Section 39715 of the Health and Safety Code.

19 (f) The Department of Transportation, in coordination with the  
20 State Air Resources Board, shall develop guidelines that describe  
21 the methodologies that recipient transit agencies shall use to  
22 demonstrate that proposed expenditures will meet the criteria in  
23 subdivisions (d) and (e) and establish the reporting requirements  
24 for documenting ongoing compliance with those criteria.

25 (g) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
26 Division 3 of Title 2 of the Government Code does not apply to  
27 the development of guidelines for the program pursuant to this  
28 section.

29 (h) A *recipient* transit agency shall submit the following  
30 information to the Department of Transportation before seeking a  
31 disbursement of funds pursuant to this part:

32 (1) A list of proposed expense types for anticipated funding  
33 levels.

34 (2) The documentation required by the guidelines developed  
35 pursuant to subdivision (f) to demonstrate compliance with  
36 subdivisions (d) and (e).

37 (i) *For capital projects, the recipient transit agency shall also*  
38 *do all of the following:*

39 (1) *Specify the phases of work for which the agency is seeking*  
40 *an allocation of moneys from the program.*

1 (2) *Identify the sources and timing of all moneys required to*  
2 *undertake and complete any phase of a project for which the*  
3 *recipient agency is seeking an allocation of moneys from the*  
4 *program.*

5 (3) *Describe intended sources and timing of funding to complete*  
6 *any subsequent phases of the project, through construction or*  
7 *procurement.*

8 (i)

9 (j) ~~Before authorizing the disbursement of funds, the department,~~  
10 *Department of Transportation*, in coordination with the State Air  
11 Resources Board, shall determine the eligibility, in whole or in  
12 part, of the proposed list of expense types, based on the  
13 documentation provided by the recipient transit agency to ensure  
14 ongoing compliance with the guidelines developed pursuant to  
15 subdivision (f).

16 (j)

17 ~~The department~~ *Department of Transportation* shall notify  
18 the Controller of approved expenditures for each *recipient* transit  
19 agency, and the amount of the allocation for each ~~transit~~ agency  
20 determined to be available at that time of approval.

21 (l) *A recipient transit agency that does not submit a project for*  
22 *funding in a particular fiscal year shall retain its funding share,*  
23 *and may accumulate and utilize that funding share in a subsequent*  
24 *fiscal year for a larger expenditure.*

25 (m) *A recipient transit agency may, in a particular fiscal year,*  
26 *loan or transfer its funding share to another recipient transit*  
27 *agency with an identified eligible expenditure under the program,*  
28 *under terms and conditions approved by the Department of*  
29 *Transportation in the guidelines developed pursuant to subdivision*  
30 *(f).*

31 (n) *A group of recipient transit agencies may, in a particular*  
32 *fiscal year, enter into an agreement to pool the respective funding*  
33 *shares of each member of the group for an identified eligible*  
34 *expenditure under the program, under terms and conditions*  
35 *approved by the Department of Transportation in the guidelines*  
36 *developed pursuant to subdivision (f).*

37 (o) *A recipient transit agency may apply to the Department of*  
38 *Transportation to reassign any savings of surplus moneys allocated*  
39 *under this section to the agency for an expenditure that has been*  
40 *completed to another eligible expenditure under the program. A*

1 *recipient transit agency may also apply to the Department of*  
2 *Transportation to reassign to another eligible expenditure any*  
3 *moneys from the program previously allocated to the agency for*  
4 *an expenditure that the agency has determined is no longer a*  
5 *priority for the use of those moneys.*

6 ~~(k)~~

7 (p) The recipient transit agency shall provide annual reports to  
8 the Department of Transportation, in the format and manner  
9 prescribed by the department, consistent with the internal  
10 administrative procedures for use of fund proceeds developed by  
11 the State Air Resources Board.

12 ~~(l)~~

13 (q) The Department of Transportation and recipient transit  
14 agencies shall comply with the guidelines developed by the State  
15 Air Resources Board pursuant to Section 39715 of the Health and  
16 Safety Code to ensure that the requirements of Section 39713 of  
17 the Health and Safety Code are met to maximize the benefits to  
18 disadvantaged communities as described in Section 39711 of the  
19 Health and Safety Code.

20 (r) *The audit of public transportation operator finances already*  
21 *required under the Transportation Development Act pursuant to*  
22 *Section 99245 of the Public Utilities Code shall be expanded to*  
23 *include verification of receipt and appropriate expenditure of*  
24 *moneys from the program. Each recipient transit agency receiving*  
25 *moneys from the program in a fiscal year for which an audit is*  
26 *conducted shall transmit a copy of the audit to the Department of*  
27 *Transportation, and the department shall make the audits available*  
28 *to the Legislature and the Controller for review on request.*

29 SEC. 2. Section 75231 is added to the Public Resources Code,  
30 to read:

31 75231. (a) A recipient transit agency under the program created  
32 pursuant to Section 75230 may apply to the Department of  
33 Transportation for a letter of no prejudice for a capital project or  
34 for any component of a capital project for which the department  
35 has authorized a disbursement of funds. If approved by the  
36 department, the letter of no prejudice shall allow the recipient  
37 transit agency to expend its own moneys for the project or any  
38 component of the project and to be eligible for future  
39 reimbursement from moneys available for the program.

1 (b) The amount expended under subdivision (a) shall be  
2 reimbursed by the state from moneys available for the program if  
3 all of the following conditions are met:  
4 (1) The project or project component for which the letter of no  
5 prejudice was requested has commenced, and the regional or local  
6 expenditures have been incurred.  
7 (2) The expenditures made by the recipient transit agency are  
8 eligible expenditures under the program. If expenditures made by  
9 the recipient transit agency are determined to be ineligible, the  
10 state has no obligation to reimburse those expenditures.  
11 (3) The recipient transit agency complies with all legal  
12 requirements for the project, including the requirements of the  
13 California Environmental Quality Act (Division 13 (commencing  
14 with Section 21000)).  
15 (4) There are moneys in the Greenhouse Gas Reduction Fund  
16 designated for the program that are sufficient to make the  
17 reimbursement payment.  
18 (c) The recipient transit agency and the Department of  
19 Transportation shall enter into an agreement governing  
20 reimbursement as described in this section. The timing and final  
21 amount of reimbursement shall be dependent on the terms of the  
22 agreement and the availability of moneys in the Greenhouse Gas  
23 Reduction Fund for the program.  
24 (d) The Department of Transportation, in consultation with  
25 recipient public transit agencies, may develop guidelines to  
26 implement this section.