

AMENDED IN SENATE MARCH 15, 2016

SENATE BILL

No. 824

Introduced by Senator Beall

January 7, 2016

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 amended, 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 *by a specified formula* 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 *any* particular fiscal year to another recipient transit agency;

agency within the same region, 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~~ 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 share~~
 13 ~~for each eligible recipient transit agency.~~
 14 (c) Funding shall be allocated by the Controller *on a formula*
 15 *basis* consistent with the requirements of this part and with Section
 16 39719 of the Health and Safety Code, upon a determination by the
 17 Department of Transportation that the expenditures proposed by
 18 a recipient transit agency meet the requirements of this part and
 19 guidelines developed pursuant to subdivision (f), and that the
 20 amount of funding requested is currently available.

1 (d) A recipient transit agency shall demonstrate that each
2 expenditure of program moneys allocated to the agency reduces
3 greenhouse gas emissions.

4 ~~(d)~~

5 (e) Moneys for the program shall be expended to provide transit
6 operating or capital assistance that meets ~~all~~ any of the ~~following~~
7 ~~criteria~~ following:

8 (1) Expenditures supporting new or expanded bus or rail
9 services, new or expanded water-borne transit, or expanded
10 intermodal transit facilities, and may include equipment acquisition,
11 fueling, and maintenance, and other costs to operate those services
12 or facilities. A recipient transit agency may use program moneys
13 for the costs to operate new or expanded service in the fiscal year
14 in which the service is first implemented, and in any subsequent
15 fiscal year if the agency can demonstrate that additional reductions
16 in greenhouse gas emissions can be realized.

17 ~~(2) The recipient transit agency demonstrates that each~~
18 ~~expenditure directly enhances or expands~~ Expenditures that directly
19 enhance or expand transit service to increase mode share.

20 ~~(3) The~~ Any other expenditure for which the recipient transit
21 agency ~~demonstrates that each~~ can demonstrate that the
22 expenditure reduces greenhouse gas emissions.

23 ~~(e)~~

24 (f) For recipient transit agencies whose service areas include
25 disadvantaged communities as identified pursuant to Section 39711
26 of the Health and Safety Code, at least 50 percent of the total
27 moneys received pursuant to this chapter shall be expended on
28 projects or services that meet requirements of subdivision (d) and
29 benefit the disadvantaged communities, consistent with the
30 guidance developed by the State Air Resources Board pursuant to
31 Section 39715 of the Health and Safety Code.

32 ~~(f)~~

33 (g) The Department of Transportation, in coordination with the
34 State Air Resources Board, shall develop guidelines that describe
35 the methodologies that recipient transit agencies shall use to
36 demonstrate that proposed expenditures will meet the criteria in
37 subdivisions (d) and ~~(e)~~ (f) and establish the reporting requirements
38 for documenting ongoing compliance with those criteria.

39 ~~(g)~~

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

5 ~~(h)~~

6 (i) A recipient transit agency shall submit the following
7 information to the Department of Transportation before seeking a
8 disbursement of funds pursuant to this part:

9 (1) A list of proposed expense types for anticipated funding
10 levels.

11 (2) The documentation required by the guidelines developed
12 pursuant to ~~subdivision (f)~~ *this section* to demonstrate compliance
13 with subdivisions (d) and ~~(e)~~: (f).

14 ~~(i)~~

15 (j) For capital projects, the recipient transit agency shall also
16 do all of the following:

17 (1) Specify the phases of work for which the agency is seeking
18 an allocation of moneys from the program.

19 (2) Identify the sources and timing of all moneys required to
20 undertake and complete any phase of a project for which the
21 recipient agency is seeking an allocation of moneys from the
22 program.

23 (3) Describe intended sources and timing of funding to complete
24 any subsequent phases of the project, through construction or
25 procurement.

26 ~~(j)~~

27 (k) Before authorizing the disbursement of funds, the
28 Department of Transportation, in coordination with the State Air
29 Resources Board, shall determine the eligibility, in whole or in
30 part, of the proposed list of expense types, based on the
31 documentation provided by the recipient transit agency to ensure
32 ongoing compliance with the guidelines developed pursuant to
33 ~~subdivision (f)~~: *this section*.

34 ~~(k)~~

35 (l) The Department of Transportation shall notify the Controller
36 of approved expenditures for each recipient transit agency, and
37 the amount of the allocation for each agency determined to be
38 available at that time of approval.

39 ~~(l)~~

1 (m) A recipient transit agency that does not submit a project for
2 funding in a particular fiscal year shall retain its funding share,
3 and may accumulate and utilize that funding share in a subsequent
4 fiscal year for a larger expenditure. *The recipient transit agency*
5 *shall specify the number of fiscal years that it intends to retain its*
6 *funding share and the expenditure for which the agency intends*
7 *to use these moneys. There shall be no limit on the number of fiscal*
8 *years that a recipient transit agency may retain its funding share.*

9 ~~(m)~~

10 (n) A recipient transit agency may, in ~~a~~ any particular fiscal
11 year, loan or transfer its funding share to another recipient transit
12 agency ~~with an~~ *within the same region for any identified eligible*
13 *expenditure under the program, under terms and conditions*
14 *approved in accordance with procedures incorporated by the*
15 *Department of Transportation in the guidelines developed pursuant*
16 *to subdivision (f). this section.*

17 ~~(n)~~

18 (o) A group of recipient transit agencies may, in ~~a~~ any particular
19 fiscal year, enter into an agreement to pool the respective funding
20 shares of each member of the group for ~~an~~ any identified eligible
21 expenditure under the program, ~~under terms and conditions~~
22 *approved in accordance with procedures incorporated by the*
23 *Department of Transportation in the guidelines developed pursuant*
24 *to subdivision (f). this section.*

25 ~~(o)~~

26 (p) A recipient transit agency may apply to the Department of
27 Transportation to reassign any savings of surplus moneys allocated
28 under this section to the agency for an expenditure that has been
29 completed to another eligible expenditure under the program. A
30 recipient transit agency may also apply to the Department of
31 Transportation to reassign to another eligible expenditure any
32 moneys from the program previously allocated to the agency for
33 an expenditure that the agency has determined is no longer a
34 priority for the use of those moneys.

35 ~~(p)~~

36 (q) The recipient transit agency shall provide annual reports to
37 the Department of Transportation, in the format and manner
38 prescribed by the department, consistent with the internal
39 administrative procedures for use of fund proceeds developed by
40 the State Air Resources Board.

1 ~~(q)~~
 2 (r) The Department of Transportation and recipient transit
 3 agencies shall comply with the guidelines developed by the State
 4 Air Resources Board pursuant to Section 39715 of the Health and
 5 Safety Code to ensure that the requirements of Section 39713 of
 6 the Health and Safety Code are met to maximize the benefits to
 7 disadvantaged communities as described in Section 39711 of the
 8 Health and Safety Code.

9 ~~(r)~~
 10 (s) The audit of public transportation operator finances already
 11 required under the Transportation Development Act pursuant to
 12 Section 99245 of the Public Utilities Code shall be expanded to
 13 include verification of receipt and appropriate expenditure of
 14 moneys from the program. Each recipient transit agency receiving
 15 moneys from the program in a fiscal year for which an audit is
 16 conducted shall transmit a copy of the audit to the Department of
 17 Transportation, and the department shall make the audits available
 18 to the Legislature and the Controller for review on request.

19 SEC. 2. Section 75231 is added to the Public Resources Code,
 20 to read:

21 75231. (a) A recipient transit agency under the program created
 22 pursuant to Section 75230 may apply to the Department of
 23 Transportation for a letter of no prejudice for a capital project or
 24 for any component of a capital project for which the department
 25 has authorized a disbursement of funds. If approved by the
 26 department, the letter of no prejudice shall allow the recipient
 27 transit agency to expend its own moneys for the project or any
 28 component of the project and to be eligible for future
 29 reimbursement from moneys available for the program.

30 (b) The amount expended under subdivision (a) shall be
 31 reimbursed by the state from moneys available for the program if
 32 all of the following conditions are met:

33 (1) The project or project component for which the letter of no
 34 prejudice was requested has commenced, and the regional or local
 35 expenditures have been incurred.

36 (2) The expenditures made by the recipient transit agency are
 37 eligible expenditures under the program. If expenditures made by
 38 the recipient transit agency are determined to be ineligible, the
 39 state has no obligation to reimburse those expenditures.

1 (3) The recipient transit agency complies with all legal
2 requirements for the project, including the requirements of the
3 California Environmental Quality Act (Division 13 (commencing
4 with Section 21000)).

5 (4) There are moneys in the Greenhouse Gas Reduction Fund
6 designated for the program that are sufficient to make the
7 reimbursement payment.

8 (c) The recipient transit agency and the Department of
9 Transportation shall enter into an agreement governing
10 reimbursement as described in this section. The timing and final
11 amount of reimbursement shall be dependent on the terms of the
12 agreement and the availability of moneys in the Greenhouse Gas
13 Reduction Fund for the program.

14 (d) The Department of Transportation, in consultation with
15 recipient public transit agencies, may develop guidelines to
16 implement this section.