

AMENDED IN SENATE APRIL 11, 2016  
AMENDED IN SENATE MARCH 15, 2016

**SENATE BILL**

**No. 824**

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**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 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 allow a recipient transit agency to loan or transfer its funding share in any particular fiscal year to another recipient transit 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~~ any eligible expenditures under the program 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.
- 11 (c) Funding shall be allocated by the Controller on a formula
- 12 basis consistent with the requirements of this part and with Section
- 13 39719 of the Health and Safety Code, upon a determination by the
- 14 Department of Transportation that the expenditures proposed by
- 15 a recipient transit agency meet the requirements of this part and
- 16 guidelines developed pursuant to subdivision (f), and that the
- 17 amount of funding requested is currently available.
- 18 (d) A recipient transit agency shall demonstrate that each
- 19 expenditure of program moneys allocated to the agency reduces
- 20 greenhouse gas emissions.
- 21 (e) Moneys for the program shall be expended to provide transit
- 22 operating or capital assistance that meets any of the following:

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. A recipient transit agency may use program moneys  
6 for the costs to operate new or expanded service in the fiscal year  
7 in which the service is first implemented, and in any subsequent  
8 fiscal year if the agency can demonstrate that additional reductions  
9 in greenhouse gas emissions can be realized.

10 (2) Expenditures that directly enhance or expand transit service  
11 to increase mode share.

12 (3) Any other expenditure for which the recipient transit agency  
13 can demonstrate that the expenditure reduces greenhouse gas  
14 emissions.

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

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

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

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

36 (1) A list of proposed expense types for anticipated funding  
37 levels.

38 (2) The documentation required by the guidelines developed  
39 pursuant to this section to demonstrate compliance with  
40 subdivisions (d) and (f).

- 1 (j) For capital projects, the recipient transit agency shall also  
2 do all of the following:
- 3 (1) Specify the phases of work for which the agency is seeking  
4 an allocation of moneys from the program.
- 5 (2) Identify the sources and timing of all moneys required to  
6 undertake and complete any phase of a project for which the  
7 recipient agency is seeking an allocation of moneys from the  
8 program.
- 9 (3) Describe intended sources and timing of funding to complete  
10 any subsequent phases of the project, through construction or  
11 procurement.
- 12 (k) Before authorizing the disbursement of funds, the  
13 Department of Transportation, in coordination with the State Air  
14 Resources Board, shall determine the eligibility, in whole or in  
15 part, of the proposed list of expense types, based on the  
16 documentation provided by the recipient transit agency to ensure  
17 ongoing compliance with the guidelines developed pursuant to  
18 this section.
- 19 (l) The Department of Transportation shall notify the Controller  
20 of approved expenditures for each recipient transit agency, and  
21 the amount of the allocation for each agency determined to be  
22 available at that time of approval.
- 23 (m) A recipient transit agency that does not submit a project for  
24 funding in a particular fiscal year shall retain its funding share,  
25 and may accumulate and utilize that funding share in a subsequent  
26 fiscal year for a larger expenditure. The recipient transit agency  
27 shall specify the number of fiscal years that it intends to retain its  
28 funding share and the expenditure for which the agency intends  
29 to use these moneys. There shall be no limit on the number of  
30 fiscal years that a recipient transit agency may retain its funding  
31 share.
- 32 (n) A recipient transit agency may, in any particular fiscal year,  
33 loan or transfer its funding share to another recipient transit agency  
34 within the same region for any identified eligible expenditure under  
35 the program, in accordance with procedures incorporated by the  
36 Department of Transportation in the guidelines developed pursuant  
37 to this ~~section~~ *section, which procedures shall be consistent with*  
38 *the requirement in subdivision (f).*
- 39 (o) A group of recipient transit agencies may, in any particular  
40 fiscal year, enter into an agreement to pool the respective funding

1 shares of each member of the group for any identified eligible  
2 expenditure under the program, in accordance with procedures  
3 incorporated by the Department of Transportation in the guidelines  
4 developed pursuant to this ~~section~~. *section, which procedures shall*  
5 *be consistent with the requirement in subdivision (f).*

6 (p) A recipient transit agency may apply to the Department of  
7 Transportation to reassign any savings of surplus moneys allocated  
8 under this section to the agency for an expenditure that has been  
9 completed to another eligible expenditure under the program. A  
10 recipient transit agency may also apply to the Department of  
11 Transportation to reassign to another eligible expenditure any  
12 moneys from the program previously allocated to the agency for  
13 an expenditure that the agency has determined is no longer a  
14 priority for the use of those moneys.

15 (q) The recipient transit agency shall provide annual reports to  
16 the Department of Transportation, in the format and manner  
17 prescribed by the department, consistent with the internal  
18 administrative procedures for use of fund proceeds developed by  
19 the State Air Resources Board.

20 (r) The Department of Transportation and recipient transit  
21 agencies shall comply with the guidelines developed by the State  
22 Air Resources Board pursuant to Section 39715 of the Health and  
23 Safety Code to ensure that the requirements of Section 39713 of  
24 the Health and Safety Code are met to maximize the benefits to  
25 disadvantaged communities as described in Section 39711 of the  
26 Health and Safety Code.

27 (s) The audit of public transportation operator finances already  
28 required under the Transportation Development Act pursuant to  
29 Section 99245 of the Public Utilities Code shall be expanded to  
30 include verification of receipt and appropriate expenditure of  
31 moneys from the program. Each recipient transit agency receiving  
32 moneys from the program in a fiscal year for which an audit is  
33 conducted shall transmit a copy of the audit to the Department of  
34 Transportation, and the department shall make the audits available  
35 to the Legislature and the Controller for review on request.

36 SEC. 2. Section 75231 is added to the Public Resources Code,  
37 to read:

38 75231. (a) A recipient transit agency under the program created  
39 pursuant to Section 75230 may apply to the Department of  
40 Transportation for a letter of no prejudice for ~~a capital project or~~

1 ~~for any component of a capital project~~ *any eligible expenditures*  
2 *under the program* for which the department has authorized a  
3 disbursement of funds. If approved by the department, the letter  
4 of no prejudice shall allow the recipient transit agency to expend  
5 its own moneys for the ~~project or any component of the project~~  
6 *expenditures* and to be eligible for future reimbursement from  
7 moneys available for the program.

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

11 (1) ~~The project or project component~~ *expenditures* for which  
12 the letter of no prejudice was requested ~~has~~ *have* commenced, and  
13 ~~the any regional or local expenditures~~ *expenditures, if applicable,*  
14 have been incurred.

15 (2) The expenditures made by the recipient transit agency are  
16 eligible ~~expenditures~~ under the program. If expenditures made by  
17 the recipient transit agency are determined to be ineligible, the  
18 state has no obligation to reimburse those expenditures.

19 (3) The recipient transit agency complies with all legal  
20 requirements for the ~~project~~, *expenditures*, including the  
21 requirements of the California Environmental Quality Act (Division  
22 13 (commencing with Section ~~21000~~); *21000*)), *if applicable*.

23 (4) There are moneys in the Greenhouse Gas Reduction Fund  
24 designated for the program that are sufficient to make the  
25 reimbursement payment.

26 (c) The recipient transit agency and the Department of  
27 Transportation shall enter into an agreement governing  
28 reimbursement as described in this section. The timing and final  
29 amount of reimbursement shall be dependent on the terms of the  
30 agreement and the availability of moneys in the Greenhouse Gas  
31 Reduction Fund for the program.

32 (d) The Department of Transportation, in consultation with  
33 recipient public transit agencies, may develop guidelines to  
34 implement this section.