

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 11, 2016

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 require a recipient transit agency to demonstrate that each expenditure of program moneys allocated to the agency does not supplant another source of funds. The bill* would authorize a recipient

transit agency that does not submit an expenditure for funding under the program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year: *year for a maximum of 4 years.* 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, 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 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.

Existing law requires recipient transit agencies whose service areas include disadvantaged communities, as defined, to expend at least 50% of the funding received from the program on projects and services that benefit disadvantaged communities.

This bill would instead provide for the Department of Transportation to require at least 50% of the total moneys available for the program to be expended on projects and services that benefit disadvantaged communities. The bill would require the department to ensure that investments benefiting disadvantaged communities are made within the jurisdiction of each regional transportation planning agency, and to report to the Legislature on the investments made in that regard by July 1, 2019, and at least every 3 years thereafter.

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

1 agencies to reduce greenhouse gas emissions and improve mobility,
2 with a priority on serving disadvantaged communities.

3 (b) Funding for the program is continuously appropriated
4 pursuant to Section 39719 of the Health and Safety Code from the
5 Greenhouse Gas Reduction Fund established pursuant to Section
6 16428.8 of the Government Code.

7 (c) Funding shall be allocated by the Controller on a formula
8 basis consistent with the requirements of this part and with Section
9 39719 of the Health and Safety Code, upon a determination by the
10 Department of Transportation that the expenditures proposed by
11 a recipient transit agency meet the requirements of this part and
12 guidelines developed pursuant to this section, and that the amount
13 of funding requested is currently available.

14 (d) A recipient transit agency shall demonstrate that each
15 expenditure of program moneys allocated to the agency reduces
16 greenhouse gas emissions.

17 (e) *A recipient transit agency shall demonstrate that each*
18 *expenditure of program moneys does not supplant another source*
19 *of funds.*

20 (e)

21 (f) Moneys for the program shall be expended to provide transit
22 operating or capital assistance that meets any of the following:

23 (1) Expenditures *that directly enhance or expand transit service*
24 *by supporting new or expanded bus or rail services, new or*
25 *expanded water-borne transit, or expanded intermodal transit*
26 *facilities, and may include equipment acquisition, fueling, and*
27 *maintenance, and other costs to operate those services or facilities.*

28 (2) Expenditures that increase mode share.

29 (3) Expenditures related to the purchase of zero-emission buses,
30 including electric buses, or the installation of the necessary
31 equipment and infrastructure to operate and support zero-emission
32 buses.

33 ~~(f) For recipient transit agencies whose service areas include~~
34 ~~disadvantaged communities as identified pursuant to Section 39711~~
35 ~~of the Health and Safety Code,~~

36 (g) (1) *The department shall require* at least 50 percent of the
37 total moneys received pursuant to this chapter ~~shall~~ *to be expended*
38 *on projects or services that meet the requirements of subdivision*
39 ~~(d)~~ *subdivisions (d), (e), and (f) and benefit the disadvantaged*
40 *communities, consistent with the guidance developed by the State*

1 ~~Air Resources Board pursuant to Section 39715 as identified~~
2 ~~pursuant to Section 39711 of the Health and Safety Code.~~

3 (2) *The department shall ensure that investments benefiting*
4 *disadvantaged communities as identified pursuant to Section 39711*
5 *of the Health and Safety Code are made within the jurisdiction of*
6 *each regional transportation planning agency, as defined in Section*
7 *99214 of the Public Utilities Code. The department,*
8 *notwithstanding Section 10231.5 of the Government Code, shall*
9 *report to the Legislature on or before July 1, 2019, and at least*
10 *every three years thereafter, on the investments made that benefit*
11 *disadvantaged communities and on the investments made that*
12 *benefit other communities. The report shall be submitted pursuant*
13 *to Section 9795 of the Government Code.*

14 ~~(g)~~

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

22 ~~(h)~~

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

27 ~~(i)~~

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

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

33 (2) The documentation required by the guidelines developed
34 pursuant to this section to demonstrate compliance with
35 subdivisions ~~(d)~~ and ~~(f)~~: (d), (e), (f), and (g).

36 ~~(j)~~

37 (k) 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 ~~(k)~~

9 ~~(l) A recipient transit agency may use program moneys for~~
10 ~~operating assistance in the fiscal year in which the service is first~~
11 ~~implemented, and that has used program moneys for operating~~
12 ~~assistance to implement new or expanded transit service in a~~
13 ~~previous fiscal year may use program moneys to continue to~~
14 ~~operate the same service in any subsequent fiscal year if the agency~~
15 ~~can demonstrate that reductions in greenhouse gas emissions can~~
16 ~~be realized.~~

17 ~~(t)~~

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

25 ~~(m)~~

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

30 ~~(n)~~

31 (o) A recipient transit agency that does not submit an
32 expenditure for funding in a particular fiscal year ~~shall~~ *may* retain
33 its funding share, and may accumulate and utilize that funding
34 share in a subsequent fiscal year for a larger expenditure, including
35 operating assistance. The recipient transit agency ~~shall~~ *must first*
36 specify the number of fiscal years that it intends to retain its
37 funding share and the expenditure for which the agency intends
38 to use these moneys. ~~There shall be no limit on the number of~~
39 ~~fiscal years that a recipient transit agency may retain its funding~~

1 ~~share.~~ *A recipient transit agency may only retain its funding share*
2 *for a maximum of four years.*

3 ~~(e)~~

4 *(p)* A recipient transit agency may, in any particular fiscal year,
5 loan or transfer its funding share to another recipient transit agency
6 within the same region for any identified eligible expenditure under
7 the program, including operating assistance, in accordance with
8 procedures incorporated by the Department of Transportation in
9 the guidelines developed pursuant to this section, which procedures
10 shall be consistent with the requirement in subdivision~~(f)~~: *(g)*.

11 ~~(p)~~

12 *(q)* A recipient transit agency may apply to the Department of
13 Transportation to reassign any savings of surplus moneys allocated
14 under this section to the agency for an expenditure that has been
15 completed to another eligible expenditure under the program,
16 including operating assistance. A recipient transit agency may also
17 apply to the Department of Transportation to reassign to another
18 eligible expenditure any moneys from the program previously
19 allocated to the agency for an expenditure that the agency has
20 determined is no longer a priority for the use of those moneys.

21 ~~(q)~~

22 *(r)* The recipient transit agency shall provide annual reports to
23 the Department of Transportation, in the format and manner
24 prescribed by the department, consistent with the internal
25 administrative procedures for use of fund proceeds developed by
26 the State Air Resources Board.

27 ~~(r)~~

28 *(s)* The Department of Transportation and recipient transit
29 agencies shall comply with the guidelines developed by the State
30 Air Resources Board pursuant to Section 39715 of the Health and
31 Safety Code to ensure that the requirements of Section 39713 of
32 the Health and Safety Code are met to maximize the benefits to
33 disadvantaged communities as described in Section 39711 of the
34 Health and Safety Code.

35 *(t)* *A recipient transit agency shall comply with all applicable*
36 *legal requirements, including the requirements of the California*
37 *Environmental Quality Act (Division 13 (commencing with Section*
38 *21000)), and civil rights and environmental justice obligations*
39 *under state and federal law. Nothing in this section shall be*

1 *construed to expand or extend the applicability of those laws to*
2 *recipient transit agencies.*

3 (s)

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

13 SEC. 2. Section 75231 is added to the Public Resources Code,
14 to read:

15 75231. (a) A recipient transit agency under the program created
16 pursuant to Section 75230 may apply to the Department of
17 Transportation for a letter of no prejudice for any eligible
18 expenditures under the program, including operating assistance,
19 for which the department has authorized a disbursement of funds.
20 If approved by the department, the letter of no prejudice shall allow
21 the recipient transit agency to expend its own moneys for the
22 expenditures and to be eligible for future reimbursement from
23 moneys available for the program.

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

27 (1) The expenditures for which the letter of no prejudice was
28 requested have commenced, and any regional or local expenditures,
29 if applicable, have been incurred.

30 (2) The expenditures made by the recipient transit agency are
31 eligible under the program. If expenditures made by the recipient
32 transit agency are determined to be ineligible, the state has no
33 obligation to reimburse those expenditures.

34 (3) The recipient transit agency complies with all *applicable*
35 legal requirements for the expenditures, including the requirements
36 of the California Environmental Quality Act (Division 13
37 (commencing with Section 21000)), ~~if applicable.~~ *and civil rights*
38 *and environmental justice obligations under state and federal law.*
39 *Nothing in this section shall be construed to expand or extend the*
40 *applicability of those laws to recipient transit agencies.*

1 (4) There are moneys in the Greenhouse Gas Reduction Fund
2 designated for the program *and from the recipient transit agency's*
3 *formula allocation share as determined pursuant to subparagraph*
4 *(B) of paragraph (1) of subdivision (b) of Section 39719 of the*
5 *Health and Safety Code* that are sufficient to make the
6 reimbursement payment.

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

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