

AMENDED IN ASSEMBLY AUGUST 18, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

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**

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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 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 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.

~~This bill would incorporate changes to Section 75230 of the Public Resources Code proposed by both this bill and AB 2090, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.~~

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

1 Greenhouse Gas Reduction Fund established pursuant to Section  
2 16428.8 of the Government Code.

3 (c) Funding shall be allocated by the Controller on a formula  
4 basis consistent with the requirements of this part and with Section  
5 39719 of the Health and Safety Code, upon a determination by the  
6 Department of Transportation that the expenditures proposed by  
7 a recipient transit agency meet the requirements of this part and  
8 guidelines developed pursuant to this section, and that the amount  
9 of funding requested is currently available.

10 (d) A recipient transit agency shall demonstrate that each  
11 expenditure of program moneys allocated to the agency reduces  
12 greenhouse gas emissions.

13 (e) A recipient transit agency shall demonstrate that each  
14 expenditure of program moneys does not supplant another source  
15 of funds.

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

18 (1) Expenditures that directly enhance or expand transit service  
19 by supporting new or expanded bus or rail services, new or  
20 expanded water-borne transit, or expanded intermodal transit  
21 facilities, and may include equipment acquisition, fueling, and  
22 maintenance, and other costs to operate those services or facilities.

23 (2) Operational expenditures that increase transit mode share.

24 (3) Expenditures related to the purchase of zero-emission buses,  
25 including electric buses, ~~or~~ and the installation of the necessary  
26 equipment and infrastructure to operate and support *these*  
27 zero-emission buses.

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

36 (h) The Department of Transportation, in coordination with the  
37 State Air Resources Board, shall develop guidelines that describe  
38 the methodologies that recipient transit agencies shall use to  
39 demonstrate that proposed expenditures will meet the criteria in  
40 subdivisions (d), (e), (f), and (g) and establish the reporting

1 requirements for documenting ongoing compliance with those  
2 criteria.

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

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

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

12 (2) The documentation required by the guidelines developed  
13 pursuant to this section to demonstrate compliance with  
14 subdivisions (d), (e), (f), and (g).

15 (k) 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 (l) A recipient transit agency that has used program moneys for  
27 any type of operational assistance allowed by subdivision (f) in a  
28 previous fiscal year may use program moneys to continue the same  
29 service or program in any subsequent fiscal year if the agency can  
30 demonstrate that reductions in greenhouse gas emissions can be  
31 realized.

32 (m) Before authorizing the disbursement of funds, the  
33 Department of Transportation, in coordination with the State Air  
34 Resources Board, shall determine the eligibility, in whole or in  
35 part, of the proposed list of expense types, based on the  
36 documentation provided by the recipient transit agency to ensure  
37 ongoing compliance with the guidelines developed pursuant to  
38 this section.

39 (n) The Department of Transportation shall notify the Controller  
40 of approved expenditures for each recipient transit agency, and

1 the amount of the allocation for each agency determined to be  
2 available at that time of approval.

3 (o) A recipient transit agency that does not submit an  
4 expenditure for funding in a particular fiscal year may retain its  
5 funding share, and may accumulate and utilize that funding share  
6 in a subsequent fiscal year for a larger expenditure, including  
7 operating assistance. The recipient transit agency must first specify  
8 the number of fiscal years that it intends to retain its funding share  
9 and the expenditure for which the agency intends to use these  
10 moneys. A recipient transit agency may only retain its funding  
11 share for a maximum of four years.

12 (p) A recipient transit agency may, in any particular fiscal year,  
13 loan or transfer its funding share to another recipient transit agency  
14 within the same region for any identified eligible expenditure under  
15 the program, including operating assistance, in accordance with  
16 procedures incorporated by the Department of Transportation in  
17 the guidelines developed pursuant to this section, which procedures  
18 shall be consistent with the requirement in subdivision (g).

19 (q) A recipient transit agency may apply to the Department of  
20 Transportation to reassign any savings of surplus moneys allocated  
21 under this section to the agency for an expenditure that has been  
22 completed to another eligible expenditure under the program,  
23 including operating assistance. A recipient transit agency may also  
24 apply to the Department of Transportation to reassign to another  
25 eligible expenditure any moneys from the program previously  
26 allocated to the agency for an expenditure that the agency has  
27 determined is no longer a priority for the use of those moneys.

28 (r) The recipient transit agency shall provide annual reports to  
29 the Department of Transportation, in the format and manner  
30 prescribed by the department, consistent with the internal  
31 administrative procedures for the use of the fund proceeds  
32 developed by the State Air Resources Board.

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

1 (t) A recipient transit agency shall comply with all applicable  
2 legal requirements, including the requirements of the California  
3 Environmental Quality Act (Division 13 (commencing with Section  
4 21000)), and civil rights and environmental justice obligations  
5 under state and federal law. Nothing in this section shall be  
6 construed to expand or extend the applicability of those laws to  
7 recipient transit agencies.

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

17 ~~SEC. 1.5.—Section 75230 of the Public Resources Code is~~  
18 ~~amended to read:~~

19 ~~75230.—(a) The Low Carbon Transit Operations Program is~~  
20 ~~hereby created to provide operating and capital assistance for transit~~  
21 ~~agencies to reduce greenhouse gas emissions and improve mobility,~~  
22 ~~with a priority on serving disadvantaged communities.~~

23 ~~(b) Funding for the program is continuously appropriated~~  
24 ~~pursuant to Section 39719 of the Health and Safety Code from the~~  
25 ~~Greenhouse Gas Reduction Fund, established pursuant to Section~~  
26 ~~16428.8 of the Government Code.~~

27 ~~(c) Funding shall be allocated by the Controller on a formula~~  
28 ~~basis consistent with the requirements of this part and with Section~~  
29 ~~39719 of the Health and Safety Code, upon a determination by the~~  
30 ~~Department of Transportation that the expenditures proposed by~~  
31 ~~a recipient transit agency meet the requirements of this part and~~  
32 ~~guidelines developed pursuant to this section, and that the amount~~  
33 ~~of funding requested is currently available.~~

34 ~~(d) A recipient transit agency shall demonstrate that each~~  
35 ~~expenditure of program moneys allocated to the agency reduces~~  
36 ~~greenhouse gas emissions.~~

37 ~~(e) A recipient transit agency shall demonstrate that each~~  
38 ~~expenditure of program moneys does not supplant another source~~  
39 ~~of funds.~~

1 ~~(f) (1) Moneys for the program shall be expended to provide~~  
2 ~~transit operating or capital assistance that meets any of the~~  
3 ~~following:~~

4 ~~(A) Expenditures that directly enhance or expand transit service~~  
5 ~~by supporting new or expanded bus or rail services, new or~~  
6 ~~expanded water-borne transit, or expanded intermodal transit~~  
7 ~~facilities, and may include equipment acquisition, fueling, and~~  
8 ~~maintenance, and other costs to operate those services or facilities.~~

9 ~~(B) Operational expenditures that increase transit mode share.~~

10 ~~(C) Expenditures related to the purchase of zero-emission buses,~~  
11 ~~including electric buses, or the installation of the necessary~~  
12 ~~equipment and infrastructure to operate and support zero-emission~~  
13 ~~buses.~~

14 ~~(2) (A) Moneys for the program may additionally be expended~~  
15 ~~to support the operation of existing bus or rail service if all of the~~  
16 ~~following occur:~~

17 ~~(i) The governing board of the transit agency declares a fiscal~~  
18 ~~emergency, as defined in paragraph (2) of subdivision (d) of~~  
19 ~~Section 21080.32, within 90 days prior to the agency requesting~~  
20 ~~the funds.~~

21 ~~(ii) The expenditure of the requested funds is necessary to~~  
22 ~~sustain the transit agency's transit service in the fiscal year in~~  
23 ~~which the requested funds are to be expended.~~

24 ~~(iii) The governing board of the transit agency would be required~~  
25 ~~to reduce or eliminate transit service if the requested funds are not~~  
26 ~~received.~~

27 ~~(iv) The governing board makes a finding that a reduction in,~~  
28 ~~or elimination of, transit service would increase greenhouse gas~~  
29 ~~emissions because transit customers would choose other~~  
30 ~~less-efficient modes of transportation.~~

31 ~~(v) The transit agency does not request funds over consecutive~~  
32 ~~funding years unless the transit agency has declared a fiscal~~  
33 ~~emergency in each year consistent with clause (i).~~

34 ~~(vi) The transit agency does not request funds for more than~~  
35 ~~three consecutive funding years.~~

36 ~~(B) Moneys allocated for the purpose of this paragraph shall be~~  
37 ~~expended to provide transit operating assistance that meets both~~  
38 ~~of the following criteria:~~

1 (i) ~~The expenditures support current bus or rail service~~  
2 ~~operating costs and may include labor, fueling, maintenance, and~~  
3 ~~other costs to operate and maintain those services.~~

4 (ii) ~~The recipient transit agency demonstrates that each~~  
5 ~~expenditure directly sustains transit service that would otherwise~~  
6 ~~be reduced or eliminated in the upcoming year if those funds were~~  
7 ~~not received.~~

8 (g) ~~For recipient transit agencies whose service areas include~~  
9 ~~disadvantaged communities, as identified pursuant to Section~~  
10 ~~39711 of the Health and Safety Code, at least 50 percent of the~~  
11 ~~total moneys received pursuant to this chapter shall be expended~~  
12 ~~on projects or services that meet requirements of subdivisions (d),~~  
13 ~~(e), and (f) and benefit the disadvantaged communities, as~~  
14 ~~identified consistent with the guidance developed by the State Air~~  
15 ~~Resources Board pursuant to Section 39715 of the Health and~~  
16 ~~Safety Code.~~

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

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

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), (e), (f), and (g).~~

36 (k) ~~For capital projects, the recipient transit agency shall also~~  
37 ~~do all of the following:~~

38 (1) ~~Specify the phases of work for which the agency is seeking~~  
39 ~~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 ~~(l) A recipient transit agency that has used program moneys for~~  
9 ~~any type of operational assistance allowed in subdivision (f) in a~~  
10 ~~previous fiscal year may use program moneys to continue the same~~  
11 ~~service or program in any subsequent fiscal year if the agency can~~  
12 ~~demonstrate that reductions in greenhouse gas emissions can be~~  
13 ~~realized.~~

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

21 ~~(n) The Department of Transportation shall notify the Controller~~  
22 ~~of approved expenditures for each recipient transit agency, and~~  
23 ~~the amount of the allocation for each agency determined to be~~  
24 ~~available at that time of approval.~~

25 ~~(o) A recipient transit agency that does not submit an~~  
26 ~~expenditure for funding in a particular fiscal year may retain its~~  
27 ~~funding share, and may accumulate and utilize that funding share~~  
28 ~~in a subsequent fiscal year for a larger expenditure, including~~  
29 ~~operating assistance. The recipient transit agency must first specify~~  
30 ~~the number of fiscal years that it intends to retain its funding share~~  
31 ~~and the expenditure for which the agency intends to use these~~  
32 ~~moneys. A recipient transit agency may only retain its funding~~  
33 ~~share for a maximum of four years.~~

34 ~~(p) A recipient transit agency may, in any particular fiscal year,~~  
35 ~~loan or transfer its funding share to another recipient transit agency~~  
36 ~~within the same region for any identified eligible expenditure under~~  
37 ~~the program, including operating assistance, in accordance with~~  
38 ~~procedures incorporated by the Department of Transportation in~~  
39 ~~the guidelines developed pursuant to this section, which procedures~~  
40 ~~shall be consistent with the requirement in subdivision (g).~~

1     ~~(q) A recipient transit agency may apply to the Department of~~  
2     ~~Transportation to reassign any savings of surplus moneys allocated~~  
3     ~~under this section to the agency for an expenditure that has been~~  
4     ~~completed to another eligible expenditure under the program,~~  
5     ~~including operating assistance. A recipient transit agency may also~~  
6     ~~apply to the Department of Transportation to reassign to another~~  
7     ~~eligible expenditure any moneys from the program previously~~  
8     ~~allocated to the agency for an expenditure that the agency has~~  
9     ~~determined is no longer a priority for the use of those moneys.~~

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

15    ~~(s) The Department of Transportation and recipient transit~~  
16    ~~agencies shall comply with the guidelines developed by the State~~  
17    ~~Air Resources Board pursuant to Section 39715 of the Health and~~  
18    ~~Safety Code to ensure that the requirements of Section 39713 of~~  
19    ~~the Health and Safety Code are met to maximize the benefits to~~  
20    ~~disadvantaged communities, as identified pursuant to Section~~  
21    ~~39711 of the Health and Safety Code.~~

22    ~~(t) A recipient transit agency shall comply with all applicable~~  
23    ~~legal requirements, including the requirements of the California~~  
24    ~~Environmental Quality Act (Division 13 (commencing with Section~~  
25    ~~21000)), and civil rights and environmental justice obligations~~  
26    ~~under state and federal law. Nothing in this section shall be~~  
27    ~~construed to expand or extend the applicability of those laws to~~  
28    ~~recipient transit agencies.~~

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

38    SEC. 2. Section 75231 is added to the Public Resources Code,  
39    to read:

1 75231. (a) A recipient transit agency under the program created  
2 pursuant to Section 75230 may apply to the Department of  
3 Transportation for a letter of no prejudice for any eligible  
4 expenditures under the program, including operating assistance,  
5 for which the department has authorized a disbursement of funds.  
6 If approved by the department, the letter of no prejudice shall allow  
7 the recipient transit agency to expend its own moneys for the  
8 expenditures and to be eligible for future reimbursement from  
9 moneys available for the program.

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

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

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

20 (3) The recipient transit agency complies with all applicable  
21 legal requirements for the expenditures, including the requirements  
22 of the California Environmental Quality Act (Division 13  
23 commencing with Section 21000)), and civil rights and  
24 environmental justice obligations under state and federal law.  
25 Nothing in this section shall be construed to expand or extend the  
26 applicability of those laws to recipient transit agencies.

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

33 (c) The recipient transit agency and the Department of  
34 Transportation shall enter into an agreement governing  
35 reimbursement as described in this section. The timing and final  
36 amount of reimbursement shall be dependent on the terms of the  
37 agreement and the availability of moneys in the Greenhouse Gas  
38 Reduction Fund for the program.

1 (d) The Department of Transportation, in consultation with  
2 recipient public transit agencies, may develop guidelines to  
3 implement this section.

4 ~~SEC. 3. Section 1.5 of this bill incorporates amendments to~~  
5 ~~Section 75230 of the Public Resources Code proposed by both this~~  
6 ~~bill and Assembly Bill 2090. It shall only become operative if (1)~~  
7 ~~both bills are enacted and become effective on or before January~~  
8 ~~1, 2017, (2) each bill amends Section 75230 of the Public~~  
9 ~~Resources Code, and (3) this bill is enacted after Assembly Bill~~  
10 ~~2090, in which case Section 1 of this bill shall not become~~  
11 ~~operative.~~