Date of Hearing: June 27, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
SB 824 (Beall) – As Amended June 21, 2016

SENATE VOTE: 26-11

SUBJECT: Low Carbon Transit Operations Program

SUMMARY: Makes various program changes to the Low Carbon Transit Operations Program (LCTOP). Specifically, **this bill**:

1) Recasts and streamlines the requirements for eligible uses of funding for LCTOP to provide operating or capital assistance projects by requiring transit agencies to meet any, instead of all, of the following expanded criteria:

    a) Directly enhance or expand transit service by supporting new or expanded bus or rail services or water-borne transit; and expanded intermodal transit facilities, including equipment acquisition, fueling, maintenance, and other costs of operating the facility;

    b) Increase mode share; or,

    c) The purchase of zero-emission buses, including electric buses, or the installation of the necessary equipment and infrastructure to operate and support zero-emission buses.

2) Allows a transit agency to use LCTOP funds for continued operations of new or expanded transit services previously funded from the program if the agency can demonstrate continued reductions in greenhouse gas emissions (GHG).

3) Requires a transit agency proposing to use LCTOP expenditures on capital projects to submit information to the California Department of Transportation (Caltrans), specifying the phases of work for which the agency is seeking an allocation, identifying the sources and timing of all moneys required for the project, and describing the intended sources of funding and timing to complete any subsequent phase.

4) Allows a transit agency to retain their funding share, for no more than four years, to accumulate and utilize funding in a subsequent year for a larger expenditure. Requires the agency to specify the number of years it intends to retain its share and on what the agency intends to spend the funds.

5) Allows a transit agency to loan or transfer its funding share, in a fiscal year, to another eligible transit agency within the same region.

6) Allows a transit agency to apply to Caltrans to reassign any project savings to another eligible expenditure or reassign funds from a previously approved project to another eligible expenditure.

7) Allows a transit agency to apply to Caltrans for a letter of no prejudice (LONP) for eligible expenditures under the program to allow the agency to expend its own resources and be eligible for reimbursement from its future funding share.

8) Requires the state to reimburse the transit agency for the LONP if all of the following are met:

   a) The expenditures have commenced and regional or local expenditures have been incurred;

   b) The expenditures made by the transit agency are eligible for the program;

   c) The recipient transit agency has complied with all applicable legal requirements, including the California Environmental Quality Act (CEQA), and federal and state civil rights and environmental justice laws; and,

   d) There are funds available from the Greenhouse Gas Reduction Fund (GGRF) designated for the program and from the transit agency's formula allocation.

9) Requires Caltrans and the transit agency to enter into an agreement governing the LONP reimbursement.

10) Allows Caltrans to develop guidelines for the use of the LONP.

11) Requires transit agencies receiving LCTOP funding to demonstrate that the expenditures do not supplant another source of funds.

12) Changes the requirements for disadvantaged communities to require at least 50% of the total program moneys for LCTOP, versus 50% of each transit agency allocation, be spent on projects or services that benefit disadvantaged communities, as defined by CalEnviroScreen, and that those investments are made within the jurisdiction of each regional transportation agency.

13) Requires Caltrans to submit a report to the Legislature every three years, starting on July 1, 2019, on the LCTOP expenditures benefiting disadvantaged communities.

14) Expands the contents of the existing audit of transit agencies required under the Transportation Development Act to include verification and receipt of funds from LCTOP and requires a copy of the audit be sent to Caltrans to be available to the Legislature or the Controller for review.

15) Requires that transit agencies comply with all applicable legal requirements, including the CEQA, and federal and state civil rights and environmental justice laws and clarifies that the section does not expand any of those laws to the agencies.

EXISTING LAW:

1) Requires the California Air Resources Board (ARB), pursuant to AB 32 (Núñez), Chapter 488, Statutes of 2006, to develop a plan of how to reduce statewide GHG emissions to 1990 levels by 2020. Under AB 32, ARB is authorized to include the use of market-based mechanisms to comply with these regulations (cap and trade).

2) Requires, pursuant to the SB 375 (Steinberg), Chapter 728, Statutes of 2008, regions to prepare a regional transportation plan that includes a sustainable communities strategy designed to achieve the regional targets for GHG emission reduction.

3) Establishes the GGRF in the State Treasury and requires all money collected pursuant to cap and trade, with limited exceptions, be deposited into the fund and makes the GGRF funds available for appropriation by the Legislature.

4) Requires, pursuant to SB 535 (de León), Chapter 830, Statutes of 2012, that a minimum of 25% of the moneys available in GGRF be used to benefits disadvantaged communities.

5) Establishes the Transit Intercity Rail Capital Program (TIRCP), administered by the California State Transportation Agency, and continuously appropriates 10% of GGRF fund proceeds to the program for transformative transit capital projects.

6) Establishes LCTOP, administered by Caltrans, and continuously appropriates 5% of GGRF fund proceeds to the program for transit operating and capital assistance to expand service, with a priority on serving disadvantaged communities.

7) Requires LCTOP funding for transit operations and capital assistance meet <u>all</u> of the following requirements:

   a) Support new or expanded bus or rail services or water-borne transit; and expanded intermodal transit facilities, including equipment acquisition, fueling, maintenance, and other costs of operating the facility;

   b) Each expenditure must directly enhance or expand transit service to increase mode share; and,

   c) Each expenditure must reduce GHGs.

8) Requires each eligible transit agency, prior to receiving funding from LCTOP, to submit to Caltrans a list of proposed expenditures and any documentation required by guidelines.

9) Requires Caltrans, in consultation with ARB, to determine if the proposed list of expenditures submitted by transit agencies meets the program guidelines.

10) Requires that after Caltrans determines the expenditures proposed by the transit agency will meet the requirements of the program, funding for LCTOP is allocated by the Controller through the State Transit Assistance (STA) formula with 50% being allocated according to population and 50% being allocated according to transit operator revenues from the prior fiscal year.

11) Requires each transit agency receiving funding from LCTOP whose service area includes disadvantaged communities, as defined by CalEnviroScreen, must expend at least 50% of the funds on projects or services that benefit those communities.

12) Requires Caltrans, in consultation with ARB, to develop guidelines, methodologies, and reporting requirements for the program.

13) Requires transit agencies to provide annual reports to Caltrans on use of the funds from the program.

FISCAL EFFECT: Unknown

COMMENTS: LCTOP was created by SB 862 (Committee on Budget and Fiscal Review), Chapter 862, Statutes of 2014, as part of a comprehensive package of programs to target GHG reductions in California using funds generated by the state's cap and trade program. These programs include affordable housing and sustainable communities, transit and intercity rail capital and operating projects, and high-speed rail. LCTOP is administered by Caltrans and is continuously appropriated 5% of GGRF funds. In 2014-15, LCTOP received $25 million, and in 2015-16 it was funded at $100 million. Although, the Governor's January 2016-17 Budget proposed $100 million for the program, it is unclear what the funding level will be for this year.

Specifically, LCTOP was created to provide operating and capital assistance for transit agencies to reduce GHG emission and improve mobility, with a priority on serving disadvantaged communities. Currently, approved projects in LCTOP support new or expanded bus or rail services and expand intermodal transit facilities and may include equipment acquisition, fueling, maintenance, and other costs to operate those services or facilities, with each project reducing GHG emissions. For transit agencies whose service area includes disadvantaged communities, at least 50% of the total moneys received shall be expended on projects that will benefit disadvantaged communities.

Currently, for operations, LCTOP supports only new and expanded transit service that increase mode share – shift new riders out of their cars – to reduce GHG emissions. Prior to receiving an allocation, which is distributed by the State Controller following the STA formula, eligible transit agencies must submit a description of their proposed expenditures and demonstrate how each expenditure will reduce GHG emissions.

According to the author, SB 824 makes a few modest adjustments to the existing LCTOP that will give transit agencies more flexibility in how they spent the funds they receive from the program. He further notes that, the total amounts agencies receive each year are very small, often in absolute terms and in all cases small relative to the need, so reducing barriers to using these funds is necessary to ensure that all transit agencies actually spend their shares to reduce GHGs.

More Flexibility: SB 824 contains numerous changes to the LCTOP program, which give more flexibility to transit agencies to utilize the funds. Specifically, this bill allows transit agencies to use LCTOP funding to support new or expanded transit service and continue funding the operation of that service in subsequent years as long as the service is helping to reduce GHGs. Additionally, this bill authorizes the use of a LONP so that transit agencies can utilize their own resources to initiate new or expanded service or commence a capital project or expenditure and be reimbursed from their future formula share of the program. LONP is utilized in many other infrastructure programs including those funded by Proposition 1B and the current TIRCP.

In writing in support of SB 824, the California Transit Association (CTA) states that this bill would modify LCTOP, based on feedback from transit agencies across the state, to provide recipient transit agencies with the tools necessary for utilizing their funding shares more strategically and with maximum benefit. They further stare that CTA supports the changes in LCTOP proposed by this bill because they would allow recipient transit agencies to more easily and efficiently pursue investments in projects that maximize GHG reductions and co-benefits, and which are more responsive to changing priorities within their service areas or regions.

Existing Practices: SB 824 also codifies numerous existing practices in LCTOP. Specifically, SB 824 allows a transit agency to “bank” their formula fund share, for no more than 4 years, to save up sufficient funds to use for a larger expenditure. Additionally, agencies that are not ready to move forward can loan or transfer their LCTOP formula share to another eligible agency in the region. This bill also allows transit agencies to reassign their funds to another eligible project and retain any savings from a project for future eligible uses. Finally, the bill expands current transit agency audit requirements to include LCTOP funding to streamline reporting.
Transit agencies have utilized LCTOP for a wide variety of projects and services including reduced transit fare passes. For example, in writing in support of SB 824, the Orange County Transportation Authority notes that they have utilized their LCTOP share to subsidize a Summer Youth Pass providing subsidized bus fares to Orange County youth; and as a result of this investment, youth ridership increased 3.5%. They further contend that this bill will help agencies build on these successes by providing the ability to invest in long-term, multi-year projects to increase ridership and reduce emissions.

Disadvantaged Communities: In addition to changes to the LCTOP funding provisions, SB 824 would change the requirement for funding for disadvantaged communities. Currently, each transit agency that has communities identified under CalEnvorScreen, must spend 50% of their respective formula share on projects or services that benefit those disadvantaged communities. SB 824 would shift the requirement to the programmatic, state-wide level, but retain geographic diversity by requiring investments benefitting disadvantaged communities within the jurisdiction of each regional transportation planning agency. This statewide approach is consistent with other GGRF programs such as the TIRCP and the Affordable Housing Sustainable Communities programs.

In writing support of this bill, the Central Contra Costa Transit Authority highlighted a priority project to help serve communities of concern in their area by increasing bus service in the Monument Corridor in Concord. They state they while the corridor is heavily concentrated with low income and minority populations, it does not meet the current state definition of disadvantaged community. The agency would like to increase service in this corridor using LCTOP funds, and therefore support a statewide disadvantaged communities’ requirement over the current transit operator boundary basis.

Related legislation: AB 2090 (Alejo) authorizes transit agencies to utilize LCTOP funding to support existing transit operations if the governing board of the transit agency declares a fiscal emergency under CEQA. AB 2090 passed the Senate Transportation and Housing Committee and is scheduled to be heard by the Senate Environmental Quality Committee on June 29, 2016.

Previous legislation: SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statues of 2014, created and funded the Affordable Housing and Sustainable Communities, the Low Carbon Transportation, TIRCP, and LCTOP programs.

REGISTERED SUPPORT / OPPOSITION:

Support

California Transit Association (Sponsor)

Santa Clara Valley Transportation Authority (Sponsor)
Associated General Contractors
Alameda-Contra Costa Transit District
Central Contra Costa Transit Authority
Foothill Transit
Los Angeles County Metropolitan Transportation Authority
Metropolitan Transportation Commission
Monterey-Salinas Transit
Napa Valley Transportation Authority
Orange County Transportation Authority
Peninsula Corridor Joint Powers Board
San Bernardino Associated Governments
San Francisco Bay Area Rapid Transit District
San Mateo County Transit District
San Mateo County Transportation Authority
Santa Cruz Metropolitan Transit District
Santa Monica's Big Blue Bus

Opposition

None on file

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