

Date of Hearing: April 11, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2090 (Alejo) – As Amended April 7, 2016

SUBJECT: Low Carbon Transit Operations Program

SUMMARY: Allows funding from the Low Carbon Transit Operations Program (LCTOP) to be expended to support the operation of existing transit service if the agency declares a fiscal emergency under the California Environmental Quality Act (CEQA). Specifically, **this bill:**

- 1) Allows funds from the LCTOP be expended to support the operation of existing bus or rail service if the following criteria are met:
 - a) The governing board of the transit agency declares a fiscal emergency, as defined by CEQA, within 90 days of the agency requesting LCTOP funds;
 - b) The expenditure of the LCTOP funds is necessary to sustain the transit agency's transit service in the year in which the funds would be expended;
 - c) The governing board of the transit agency would be forced to reduce or eliminate transit service if the requested LCTOP funds are not received; and,
 - d) The governing board of the transit agency makes a finding that a reduction in or elimination of existing transit service would increase greenhouse gas (GHG) emissions because customers would choose other less-efficient modes of transportation.
- 2) Defines the criteria for which funds from LCTOP can be expended by the transit agency after they declare a fiscal emergency under CEQA, including:
 - a) The expenditures support current bus or rail service operating costs, including labor, fueling, maintenance, and other costs to operate;
 - b) The transit agency demonstrates that each expenditure directly sustains transit service that would otherwise be reduced or eliminate in the upcoming year without the LCTOP funds; and,
 - c) Transit agencies may not request LCTOP to support existing transit service unless the agency declares a fiscal emergency in each year under CEQA and for not more than three consecutive years.

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 must prepare a regional transportation plan that includes a sustainable communities strategy (SCS) designed to achieve the regional targets for GHG emission reduction.
- 3) Establishes the Greenhouse Gas Reduction Fund (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) Establishes the LCTOP, administered by the California Department of Transportation (Caltrans), and continuously appropriates 5% of GGRF fund proceeds for transit operations to expand service, with a priority on serving disadvantaged communities.
- 5) 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.
- 6) Provides funding for public transportation through the Transportation Development Act (TDA), including State Transit Assistance (STA) which is derived from the statewide sales tax on diesel fuel. STA funds are appropriated by the Legislature and are allocated by a formula with 50% being allocated according to population and 50% being allocated according to transit operator revenues from the prior fiscal year.
- 7) Requires transit operators to maintain a specified ratio of fare revenues to operating costs in order to be eligible to receive TDA funds.

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 projects, and high-speed rail. LCTOP is administered by Caltrans and is continuously appropriated 5% of GGRF of funds. In 2014-15, LCTOP received \$25 million, and in 2015-16 it was funded at \$100 million. The Governor's January 2016-17 Budget proposes \$100 million for the program.

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. 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.

LCTOP's purpose is to support 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.

As noted by the author, some transit agencies in the state are facing fiscal challenges that prevent them from putting more new bus or rail service out on the street, and they are currently prohibited from using these vital state funds to supplement their transit service. He adds that not only are these agencies unable to provide new transit services, they are struggling to maintain the level of service out on the street today. And without sources of revenue, transit agencies may have to cut back service, thus forcing some transit riders onto less efficient, dirtier modes of transportation, which could in turn actually increase GHG emissions.

This bill is sponsored by Santa Cruz Metropolitan Transit District (METRO). The district asserts it is experiencing a significant and growing structural deficit caused by rising operations costs and flat ridership amidst diminishing local, state, and federal support. It further contends that the flexibility provided by this bill will allow it to avoid making a counterproductive 25% reduction in service that would impact 46% of their core ridership.

Under this bill, to be able to use LCTOP funds to support existing service, a transit agency would have to declare a fiscal emergency under CEQA. Current law allows transit agencies to be exempted from CEQA review of the reduction or elimination of transit services and increases to fares, fees, fines, rates and charges that support transit service when such actions are undertaken as a result of a declared fiscal emergency caused by the failure of revenues to adequately fund agency programs, facilities, and operations. Under CEQA, a “fiscal emergency” means that the agency is projected to have negative funding within one year from the date of declaration. The transit agency must conduct a public hearing to consider the action prior to declaring the fiscal emergency.

In writing support of this bill, the California Transit Association states that it supports AB 2090 because it would provide a recipient transit agency with a targeted new tool for maintaining current transit service levels in a fiscal emergency. At the same time, the stringent requirements ensure that the core function of LCTOP remains i.e., advancing transit services and initiatives that reduce GHG emissions.

As the state and regions continue to work toward the goal reducing GHG emissions, as well as cutting other forms of air pollution, as set forth in AB 32 and SB 375, increasing the mode shift from single occupant car trips to public transportation is critical for success in reaching this goal. LCTOP is an important funding source to support new and expanding transit services throughout the state. However, if a transit agency is forced to increase fares and reduce or eliminate services due to budget problems, not allowing the agency to access and utilize this funding source seems counterproductive. Eliminating service will eliminate transportation options for the affected communities and will likely shift people back to their cars for commuting and other uses, which will serve to increase GHG emissions. If a transit agency declares a fiscal emergency, the use of LCTOP funds may not fully offset all of the reductions or changes needed to regain balance, but will help mitigate the situation. This bill also includes a three-year limit on the time one agency can use LCTOP for this purpose, which will help ensure the funds serve only as temporary assistance.

Related legislation: SB 824 (Beall), would authorize a transit agency that does not submit a project for funding under LCTOP in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year or loan or transfer it to another eligible agency in the same region. SB 824 is scheduled to be heard by the Senate Transportation and Housing Committee on April 19, 2016.

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

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

AB 32 (Núñez), Chapter 488, Statutes of 2006, created the California Global Warming Solutions Act of 2006 and required ARB to adopt GHG reduction measures to ensure that statewide emissions are reduced to 1990 levels by 2020.

REGISTERED SUPPORT / OPPOSITION:**Support**

Santa Cruz Metropolitan Transit District (Sponsor)
Association of Monterey Bay Area Governments
California Transit Association
Honorable Cynthia Mathews, Mayor, city of Santa Cruz
Monterey-Salinas Transit
Orange County Transportation Authority
Riverside Transit Agency

Opposition

None on file

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