

Date of Hearing: June 11, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 903 (Cannella) – As Amended May 31, 2018

SENATE VOTE: 39-0

SUBJECT: Transportation Development Act: County of Stanislaus

SUMMARY: Authorizes the Stanislaus Council of Governments (StanCOG), for two fiscal years, to reduce the required farebox recovery ratio for its transit operators up to 5% below the required ratio effective for the 2015-16 fiscal year. Specifically, **this bill:**

- 1) Authorizes StanCOG to reduce the required ratio of fare revenues to operating costs (farebox recovery ratio) for transit operators with primary service area in the county by up to 5% from the required ratio effective in the 2015-16 fiscal year.
- 2) Authorizes StanCOG to use this calculating method for the 2018-19 and 2019-20 fiscal years.
- 3) If StanCOG uses this calculating method, they must submit a report to the transportation policy committees of the Legislature, by January 1, 2020, analyzing the options for organizing and supporting transit service in the county. The report must include, but not be limited to:
 - a) A description of the transit routes operating within the county;
 - b) The service levels on those transit routes, including any planned expansions or consolidations;
 - c) The ridership numbers for those transit routes; and,
 - d) The annual budget numbers for the transit services provided by each individual operator in the county, including its ratio of fare revenues to operating cost and any salary increases since the enactment of this section.
- 4) Requires the section become inoperative on July 1, 2020, and is repealed on January 1, 2021.
- 5) Contains an urgency clause.

EXISTING LAW:

- 1) The Transportation Development Act (TDA) of 1971, provides funding for transit and non-transit related purposes that comply with regional transportation plans. It serves to improve existing public transportation services and encourage regional transportation coordination.
- 2) TDA provides funding for public transit from two funding sources:
 - a) Local Transportation Fund (LTF), which is derived from a 1/4 cent of the general sales tax collected statewide.

- b) State Transit Assistance fund (STA), which is derived from the statewide sales tax on diesel fuel.
- 3) Authorizes Regional Transportation Planning Agencies (RTPAs) to administer transit funding made available under the TDA. Imposes certain financial requirements on transit operators making claims for transit funds, including requirements that fares collected by the operator cover a specified percentage of operating costs, and that an operator's total operating cost per revenue vehicle hour not exceed operating revenues and the percentage change in the Consumer Price Index (CPI). Establishes different farebox recovery requirements depending upon population.
 - 4) Defines "operating costs" for purposes of calculating a transit agency's farebox recovery ratio.
 - 5) Requires a transit operator in an urbanized area to maintain a 20% farebox recovery ratio in order to be eligible for LTF TDA funds.
 - 6) Requires a transit operator in a non-urbanized area to maintain a 10% farebox recovery ratio in order to be eligible for LTF TDA funds.
 - 7) Allows a one year "grace year" for transit operators who fail to meet their farebox recovery ratio, for which they do not lose LTF funds.
 - 8) State regulations create a 3-year penalty cycle for transit operators who do not meet their farebox recovery ratios in which a penalty, or loss of some LTF funds, does not occur until the end of the third fiscal year after non-compliance. Allows operators to retain full receipt of LTF funds if they achieve the required farebox recovery ratio within the penalty cycle.
 - 9) Authorizes the Metropolitan Transportation Commission (MTC), for transit operators serving the San Francisco Bay Area Rapid Transit District area, excluding the City and County of San Francisco, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating the operators as a group rather than individually if their services are coordinated.
 - 10) Authorizes the San Diego Metropolitan Transit System (MTS), for transit operators providing service within the area under their jurisdiction, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating them as a single operator.
 - 11) Authorizes the Sacramento Area Council of Governments (SACOG), for transit operators serving the area of Sacramento County and the cities within the county, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating some or all of the operators as a group rather than individually if their services are coordinated.

FISCAL EFFECT: None, this bill is keyed non-fiscal by the Office of Legislative Counsel.

COMMENTS: In 1971, the Legislature enacted the Mills-Alquist-Deddeh Act, otherwise known as the TDA, which dedicated a statewide 1/4 cent sales tax to local transportation. That

1/4 cent sales tax, now known as the Local Transportation Fund (LTF), generates over \$1.5 billion annually primarily for public transit. Later, the Legislature created a second state funding source for public transit under the TDA called the State Transit Assistance (STA). The STA, which generates more than \$400 million annually, is derived from the sales tax on diesel fuel and is distributed to local agencies based on population and transit operator revenues.

With respect to the LTF, the California Department of Tax and Fee Administration, based on sales tax collected in each county, returns the general sales tax revenues to each county's LTF. For the STA, funds are appropriated by the Legislature to the State Controller's Office (SCO). The SCO then allocates the tax revenue, by formula, to RTPAs and other selected transportation agencies. Current law requires that 50% of STA funds be allocated according to population and 50% be allocated according to operator revenues.

To be eligible to receive its full share of LTF, existing law requires a transit operator to meet a specified ratio of fare revenues to operating cost, called the farebox recovery ratio. Generally, existing law defines the minimum ratio necessary to receive all LTF funding as either 20% for urban operators, or 10% for operators in a non-urbanized area. If a transit operator fails to meet its specified farebox recovery ratio, existing law requires the RTPA to withhold a percentage of the LTF equal to the percentage by which the operator missed its expected ratio.

SB 508 (Beall), Chapter 716, Statutes of 2015, updated numerous provisions of TDA law, including farebox recovery ratio requirements. Specifically, SB 508 updated what counts toward the operating costs to help accommodate unpredictable variables such as the cost of fuel. Additionally, if an operator receives funds from local revenue sources, such as a local sales tax measure, it can help to meet its farebox recovery ratio by combining fare revenues with that local support.

Per state regulations, transit operators are given one grace year to make their farebox recovery ratio. If they do not meet their ratio for the second year, or non-compliance year, the transit operator loses a portion of their LTF funds based on the percentage by which they missed their actual farebox recovery ratio. Again, state regulations outline a 3-year penalty cycle for non-compliance with farebox ratio requirements. Transit operators do not see the actual penalty, or loss of LTF funds, until the beginning of the fourth fiscal year. For example, a transit operator has operating costs of \$100,000 and a required farebox recovery ratio of 20%. The operator did not meet their ratios for two consecutive years. In the second, or non-compliance year, the operator's actual fares were \$18,000. The transit operator would lose \$2,000 of LTF funds in the penalty year (beginning of fourth fiscal year).

Current law requires RTPAs to oversee all of the farebox recovery requirements for the transit operators in their district. To some extent RTPAs have some flexibility with the ratio if the operators provide service to both urban and rural areas, such as adjusting their ratio to 15%. Transit operators are required to complete both annual audits and a triennial performance audit required by the Federal Transit Administration. Audits are reported to both the RTPAs and the SCO who publishes the data for each operator, including their farebox recovery ratios. Additionally, the California Department of Transportation (Caltrans) oversees transit operators' use of federal funds and has the responsibility of developing regulations to implement TDA law. However, there is no state entity that provides direct oversight of TDA expenditures or provides oversight or assistance for RTPAs or transit operators who may be having trouble with TDA compliance.

To assist rural and smaller providers in a region, some RTPAs have been authorized to combine some or all of their transit operators together when calculating farebox recovery ratios. This was most recently done in the Sacramento area with the passage of AB 432 (Dickinson), Chapter 229, Statutes of 2012.

According to the author, “The purpose of the bill is to ensure that transit service providers within Stanislaus County are able to retain critical operations funding to maintain existing service. Without special legislation, state funding is in jeopardy as soon as July 1, 2018.”

The transit operators in Stanislaus County have been struggling since the 2010 census. In the 2010 census, the population of the county exceeded the 500,000-population threshold in TDA law, thus requiring transit operators serving the county to increase their farebox recovery ratios by 10% (from 10% to 20%). The author states that due to the residential and commercial development practices of local agencies, and in order for transit to continue operating at its current level, some reprieve in the farebox recovery ratio is needed.

Specifically, during StanCOG’s review of transit claims in the 2016-17 fiscal year, it was determined that the City of Ceres was non-compliant with the required farebox recovery ratios in the 2014-15 fiscal year, which initiated the penalty cycle required by TDA. In the 2017-18 fiscal year, the City of Ceres was found to be non-compliant with the required fare recovery ratios in the 2015-16 year. Following the TDA penalty cycle the 2014-15 fiscal year was determined by StanCOG to be a grace year, with fiscal year 2015-16 being identified as a non-complaint year subject to penalty. As a result, the City of Ceres’ transit claim for fiscal year 2017-18 was reduced by \$22,710. This shortfall was recouped from local general funds. According to StanCOG, the sponsors of this bill, the City of Ceres has made it clear that without some sort of relief from the required fare recovery ratio, they will be forced to eliminate transit service to avoid having to pay additional penalties with general funds that are typically utilized to provide other essential services, such as police and fire.

Additionally, based on the estimated farebox recovery ratio for the 2017-18 fiscal year, the City of Ceres will again be at risk of incurring a penalty. The cities of Modesto and Turlock, and Stanislaus County, the other transit operators in the county, are all projected to fall below their required fare recovery ratios for the 2017-18 fiscal year and are thus at risk of entering into the penalty phase.

This bill would allow StanCOG to reduce the farebox recovery ratio for its transit operators up to 5% below the required ratio from the 2015-16 fiscal year. StanCOG would be able to make this change for only two fiscal years, with the bill becoming inoperative on July 1, 2020. Essentially, the bill allows StanCOG to take a “pause” for two years for the farebox recovery ratios for providers in the county. During that time, StanCOG is required to develop a transit report analyzing the options for organizing and supporting transit service in the county. This coordinated look at their current and future service, coupled with discussions at the state level about overall transit performance measures, could help the county develop a path to compliance.

Writing in support of the bill, the City of Modesto states that it, “is the largest city in Stanislaus County. In recent years, Modesto has experienced extensive growth of both residential and commercial areas, following a statewide boom in housing demand and construction. In fact, Stanislaus County’s population recently exceeded 500,000, which resulted in a classification

change to an urban county. The purpose of this bill is to allow StanCOG to make adjustments for rural and smaller operators that are within larger urbanized Stanislaus County.” The City of Ceres adds that, “The transit dependent populations of Ceres – especially seniors and people with disabilities – will experience great transportation challenges and a reduced quality of life if the city cannot continue its public transit services.”

Also writing in support, the California Teamsters note that, “Despite local transit operators cutting low performing routes, enacting fare increases, as well as the passage of a local transportation sales tax measure partially for transit funding, service is now at-risk for dial-a-ride services for the elderly and disabled. This adversely impacts these communities, as well as our membership who depend on these jobs.”

Committee Comments: At the time of the passage of SB 508, it was noted that the performance measures for transit operators have been diluted over time; however, they remain the closet thing the state has to holding transit operators accountable for effectively spending state dollars. The need for updated transit performance measures continues to be an issue. Farebox recovery ratios may not be the best measure of a transit operator’s performance or how they are serving their communities. The Legislature, Administration, and the state’s transit operators and local governments must come together and look at different options for measuring performance of transit systems in California.

Some of the issues raised by this bill should be discussed as part of a broader look at TDA law, including whether urban and rural areas of the state have similar needs or issues with providing public transit. How should the state measure performance for San Francisco versus Modesto? What role do Self-Help County measures play in overall transit operations and capital improvements? How do regional planning and local land use decisions about development impact transit operators and their ability to provide service?

With the passage of SB 1 (Beall), Chapter 5, Statutes of 2017, the STA portion of funding for transit operators more than doubled. The state continues to be a major funding partner in the state’s transit systems and therefore must be more involved in its oversight. As previously mentioned, the only state entities that participate in the TDA process are the SCO and Caltrans. Their role is limited to reporting and providing guidance on relevant laws, but not active oversight. That role is retained by the RTPAs.

The previous version of this bill would have allowed StanCOG to determine their transit operators’ farebox recovery ratios utilizing population density as a factor. This factor is not currently used as a measure in TDA law. It remains unclear what type of impact this new factor may have or whether it is an appropriate consideration in measuring transit performance. In place of creating a unique TDA formula for one county, this bill allows StanCOG to develop a countywide transit strategy, and be part of a larger conversation of TDA.

It is clear that TDA law, and specifically the performance measures for public transit, needs to be examined and overhauled. Creating more exceptions to current law will just continue to degrade the only performance measure the state has but not deal with the overarching issues.

Related Legislation: AB 1969 (Salas) of 2017, would have authorized RTPAs to grant a transit operator an exemption, for up to five years, from meeting farebox recovery ratio requirements

after considering certain factors. AB 1969 was set to be heard by this committee but was cancelled at the request of the author.

Previous Legislation: SB 508 (Beall), Chapter 716, Statutes of 2015, redefines and recasts numerous provisions of TDA and STA law, including redefining what is counted a “operating costs” for the calculation of farebox recovery ratios.

AB 432 (Dickinson), Chapter 229, Statutes of 2012, authorized SACOG, for transit operators serving the area of Sacramento County and the cities within the county, to make a determination as to whether transit operators have met the requirements for claims for transit funds by evaluating some or all of the operators as a group rather than individually if their services are coordinated.

REGISTERED SUPPORT / OPPOSITION:

Support

Stanislaus Council of Governments (Sponsor)
California Teamsters Public Affairs Council
City of Ceres
City of Modesto
City of Turlock
Stanislaus County

Opposition

None on file

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