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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL**NO. 942****Introduced by Senator Newman
(Coauthors: Senators Rubio and Umberg)****February 08, 2022**

An act to amend Section 75230 of the Public Resources Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 942, Newman. Low Carbon Transit Operations Program: free or reduced fare transit program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board as part of a market-based compliance mechanism to be deposited into the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates specified portions of the annual proceeds in the fund to various programs, including 5% for the Low Carbon Transit Operations Program, which is administered by the Department of Transportation and provides operating and capital assistance for transit agencies to reduce the emissions of greenhouse gases and improve mobility. Existing law requires each of those transit agencies to demonstrate that each expenditure of program moneys allocated to the transit agency reduces the emissions of greenhouse gases and does not supplant another source of funds, to use those moneys to provide transit operating or capital assistance, to use at least 50% of those moneys to benefit disadvantaged communities, and to submit specified information to the department before seeking a disbursement of those program moneys, as

specified. Existing law authorizes a transit agency that has used program moneys for certain authorized operational assistance purposes in a previous fiscal year to use those moneys to continue the same service or program in any subsequent fiscal year if the transit agency can demonstrate that reductions in the emissions of greenhouse gases can be realized.

This bill would exempt a transit agency using program moneys for the continuation of a free or reduced fare transit program from the above-described requirement to demonstrate that reductions in the emissions of greenhouse gases can be realized through the continuation of its transit program, and authorize the transit agency to continue to use

those moneys for that purpose without any restriction to length of time. The bill would require the transit agency to submit an initial allocation request to the department and, for the next three fiscal years, to provide documentation necessary to meet an annual reporting requirement and comply with the program's requirements.

Because this bill would expand the number of transit agencies eligible to receive an allocation of the funds continuously appropriated pursuant to the program, the bill would make an appropriation.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 75230 of the Public Resources Code is amended to read:

75230. (a) The Low Carbon Transit Operations Program is hereby created to provide operating and capital assistance for transit agencies to reduce the emissions of greenhouse gases and improve mobility, with a priority on serving disadvantaged communities.

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

(c) Except as provided in subdivision (w), funding shall be allocated by the Controller on a formula basis consistent with the requirements of this part and with Section 39719 of the Health and Safety Code, upon a determination by the Department of Transportation that the expenditures proposed by a recipient transit agency meet the requirements of this part and guidelines developed pursuant to this section, and that the amount of funding requested is currently available.

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

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

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

(1) Expenditures that directly enhance or expand transit service by supporting new or expanded bus or rail services, new or expanded waterborne transit, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance, and other costs to operate those services or facilities.

(2) Operational expenditures that increase transit mode share.

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

(g) (1) For a recipient transit agency whose service area includes disadvantaged communities, as identified pursuant to Section 39711 of the Health and Safety Code, at least 50 percent of the total moneys received pursuant to this chapter shall be expended on projects or services that meet the requirements of subdivisions (d), (e), and (f) and benefit the disadvantaged communities, as identified consistent with the guidance developed by the State Air Resources Board pursuant to Section 39715 of the Health and Safety Code.

(2) The requirement of paragraph (1) is waived if the recipient transit agency expends the funding provided pursuant to this section on any of the following:

(A) New or expanded transit service that connects with transit service serving disadvantaged communities, as identified pursuant to Section 39711 of, or in low-income communities, as defined in paragraph (2) of subdivision (d) of Section 39713 of, the Health and Safety Code.

(B) Transit fare subsidies and network and fare integration technology improvements, including, but not limited to, discounted or free student transit passes.

(C) The purchase of zero-emission transit buses and supporting infrastructure.

(3) Expenditures made pursuant to paragraph (2) shall be deemed to have met all applicable requirements established pursuant to Section 39713 of the Health and Safety Code.

(4) This section does not require a recipient transit agency to provide individual rider data to the Department of Transportation or to the State Air Resources Board.

- (h) The Department of Transportation, in coordination with the State Air Resources Board, shall develop guidelines that describe the methodologies that a recipient transit agency shall use to demonstrate that proposed expenditures will meet the criteria in subdivisions (d), (e), (f), and (g) and establish the reporting requirements for documenting ongoing compliance with those criteria.
- (i) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development of guidelines for the program pursuant to this section.
- (j) A recipient transit agency shall submit the following information to the Department of Transportation before seeking a disbursement of funds pursuant to this part:
- (1) A list of proposed expense types for anticipated funding levels.
 - (2) The documentation required by the guidelines developed pursuant to this section to demonstrate compliance with subdivisions (d), (e), (f), and (g).
- (k) For capital projects, a recipient transit agency shall also do all of the following:
- (1) Specify the phases of work for which the recipient transit agency is seeking an allocation of moneys from the program.
 - (2) Identify the sources and timing of all moneys required to undertake and complete any phase of a project for which the recipient transit agency is seeking an allocation of moneys from the program.
 - (3) Describe intended sources and timing of funding to complete any subsequent phases of the project, through construction or procurement.
- (l) Except as specified in subdivision (m), a recipient transit agency that has used program moneys for any type of operational assistance allowed by subdivision (f) in a previous fiscal year may use program moneys to continue the same service or program in any subsequent fiscal year if the agency can demonstrate that reductions in the emissions of greenhouse gases can be realized.
- (m) A recipient transit agency using program moneys for the continuation of a free or reduced fare transit program shall not be subject to subdivision (l) and may continue to use program moneys for that purpose without any restriction to length of time. The recipient transit agency shall submit an initial allocation request to the department and meet all requirements of this section, except subdivision (l). After the initial allocation for a recipient transit agency's free or reduced fare transit program is funded pursuant to this subdivision, the recipient transit agency shall not be required to submit an additional allocation request for the next three fiscal years, but instead shall provide documentation necessary to meet the requirements of subdivision (s) and for the free or reduced fare transit program to maintain compliance with this section as detailed in the initial allocation request submitted to the department. A recipient transit agency using funds for a free or reduced fare transit program funded pursuant to this subdivision shall submit the reports required by subdivision (s).
- (n) Before authorizing the disbursement of funds, the Department of Transportation, in coordination with the State Air Resources Board, shall determine the eligibility, in whole or in part, of the proposed list of expense types, based on the documentation provided by a recipient transit agency to ensure ongoing compliance with the guidelines developed pursuant to this section.
- (o) The Department of Transportation shall notify the Controller of approved expenditures for each recipient transit agency, and the amount of the allocation for each agency determined to be available at that time of approval.
- (p) A recipient transit agency that does not submit an expenditure for funding in a particular fiscal year may retain its funding share, and may accumulate and use that funding share in a subsequent fiscal year for a larger expenditure, including operating assistance. The recipient transit agency must first specify the number of fiscal years that it intends to retain its funding share and the expenditure for which the agency intends to use these moneys. A recipient transit agency may only retain its funding share for a maximum of four fiscal years.
- (q) A recipient transit agency may, in any particular fiscal year, loan or transfer its funding share to another recipient transit agency within the same region for any identified eligible expenditure under the program, including operating assistance, in accordance with procedures incorporated by the Department of Transportation in the guidelines developed pursuant to this section, which procedures shall be consistent with the requirement in subdivision (g).
- (r) A recipient transit agency may apply to the Department of Transportation to reassign any savings of surplus moneys allocated under this section to the agency for an expenditure that has been completed to another eligible expenditure under the program, including operating assistance. A recipient transit agency may also apply to the Department of Transportation to reassign to another eligible expenditure any moneys from the program previously

allocated to the agency for an expenditure that the agency has determined is no longer a priority for the use of those moneys.

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

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

(u) A recipient transit agency shall comply with all applicable legal requirements, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)), and civil rights and environmental justice obligations under state and federal law. This section does not expand or extend the applicability of those laws to recipient transit agencies.

(v) The audit of public transportation operator finances already required under the Mills-Alquist-Deddeh Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code) pursuant to Section 99245 of the Public Utilities Code shall be expanded to include verification of receipt and appropriate expenditure of moneys from the program. Each recipient transit agency receiving moneys from the program in a fiscal year for which an audit is conducted shall transmit a copy of the audit to the Department of Transportation, and the department shall make the audits available to the Legislature and the Controller for review on request.

(w) Notwithstanding subdivision (c), the Controller shall allocate funding pursuant to this section for the 2019–20 to 2022–23, inclusive, fiscal years to recipient transit agencies pursuant to the individual operator ratios described in Section 99314.10 of the Public Utilities Code.