Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
SB 1119 (Beall) – As Amended June 18, 2018

SENATE VOTE: 38-0

SUBJECT: Low Carbon Transit Operations Program

SUMMARY: Waives the requirement for transit agencies to spend 50% of funds from the Low Carbon Transit Operations Program (LCTOP) on projects or services that benefit disadvantaged communities (DACs), and deems that all applicable low-income requirements are met, if the funding is spent on certain transit activities, such as reduced fare student transit passes. Specifically, **this bill**:

1) Waives the requirement for transit agencies to expend 50% of total funds they receive from the LCTOP program on projects or services that benefit DACs, as defined, and deems that all applicable low-income requirements, as defined, are met if the funding provided is expended on any of the following:

   a) New or expanded transit service that connects with transit service serving disadvantaged communities or in low income communities, as defined;

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

   c) The purchase of zero emission transit buses and supporting infrastructure.

2) Clarifies that a recipient transit agency is not required to provide individual rider data to the Department of Transportation (Caltrans) or the State Air Resources Board (ARB).

EXISTING LAW:

1) Requires ARB, pursuant to AB 32 (Núñez), Chapter 488, Statutes of 2006, to develop a plan of how to reduce statewide greenhouse gas (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 ARB, pursuant to SB 32 (Pavley), Chapter 249, Statutes of 2016, ensure that statewide GHG emissions are reduced to at least 40% below the statewide GHG limit no later than December 31, 2030.

3) 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.

4) 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.

5) Requires, pursuant to SB 535 (de León), Chapter 830, Statutes of 2012, that a minimum of 25% of the monies available in GGRF be used to benefit DACs, as defined.

6) Requires, pursuant to AB 1550 (Gomez), Chapter 369, Statutes of 2016, GGRF investments allocated to DACs to be allocated as follows:

   a) A minimum of 25% to projects that are located within and benefiting individuals living in DACs.

   b) An additional 5% (minimum) to projects benefiting low income households or located within the boundaries of, and benefiting individuals living in, low-income communities.

   c) An additional 5% (minimum) to projects benefiting low-income households outside of but within 1/2 mile of a DAC, or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but within 1/2 mile of, DACs.

7) 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.

8) Establishes LCTOP, administered by Caltrans, and continuously appropriates 5% of GGRF fund proceeds to the program for transit operating and capital assistance to reduce GHG emission and improve mobility, with a priority on serving DACs.

9) Requires LCTOP funding for transit operations and capital assistance to meet any of the following requirements:

   d) Directly enhance or expand transit service by supporting new or expanded bus or rail services, new or expanded water-borne transit, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance, and other costs to operate those services or facilities;

   e) Operations that increase transit mode share; or,

   f) 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.

10) 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.

11) Requires Caltrans to determine if the proposed list of expenditures submitted by transit agencies meets requirements and program guidelines, including:

   a) The recipient transit agency must demonstrate that each expenditure reduces GHG emissions; and,

b) The recipient transit agency must demonstrate that each expenditure does not supplant another source of funds.

12) 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.

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

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

15) Allows transit agencies some flexibilities to administer the funds, including retaining its annual share for up to four years for a large expenditure; loaning or transferring its share to another transit agency within the same region; applying to Caltrans to reassign any project savings to another expenditure; and applying to Caltrans for a letter of no prejudice with specified conditions.

16) Requires Caltrans and the recipient transit agencies to comply with guidelines developed by ARB regarding DACs.

17) Requires that recipient transit agencies comply with all applicable legal requirements, including the California Environmental Equity Act and civil rights and environmental justice.

18) Requires transit agencies to include verification of recipient and expenditure of funds as part of the regular audit required by the Transportation Development Act.

19) 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. LCTOP has allocated nearly $135 million since its inception, with $97 million proposed to be allocated for the 2017-18 fiscal 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 DACs. SB 824 (Beall), Chapter 479, Statues of 2016, recast many of the provisions of LCTOP to try to make the program more flexible for transit agencies by authorizing certain financial options for projects such as banking funds for the future purchase of a zero-emission bus. Overall, LCTOP can fund projects that directly enhance or expand transit service by supporting new or expanded bus or rail services, water borne transit, or intermodal transit facilities, including equipment acquisition, fueling, maintenance, and other costs to operate those services or facilities; operational expenditures that increase transit mode share – shift new riders out of their cars; or the purchase of zero emission buses, including the installation of the necessary equipment and infrastructure to operate and support the buses. All projects must reduce GHG emissions and must not supplant other agency funds. 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.

The LCTOP enabling legislation requires transit agencies whose service area includes a DAC, as defined by CalEnviroScreen, to expend at least 50% of the total monies received by the agency on projects that benefit DACs. As LCTOP is funded with GGRF monies, the program is also impacted by the new requirements included in AB 1550 (Gomez), Chapter 369, Statutes of 2016, which also require funds to be expended to benefit low income communities and low income households. ARB provides guidance to state agencies that administer GGRF monies on how to target GGRF investments to benefit AB 1550 populations, as well as how to maximize benefits to DACs pursuant to SB 535, now collectively referred to as "priority communities." ARB's draft revised GGRF funding guidelines, released in April 2018, provide direction for state agencies that administer GGRF funded programs until the final guidelines are approved. The guidelines provide that state agencies must determine if a project meets the criteria for providing direct, meaningful, and assured benefits to priority populations by identifying the priority population, addressing a need, and providing a benefit. All of these evaluation factors are defined for the administering agencies.

Specifically, the guidelines include evaluation criteria for transit projects for providing benefits to priority communities. The ARB guidelines are incorporated into the Caltrans guidelines for the LCTOP program. The guidelines specify that priority populations include residents of (1) census tracts identified as DACs by CalEPA, (2) census tracts identified as low-income, or (3) a low-income household. The draft guidelines' criteria to evaluate transit projects for priority community benefits specify that the project must do at least one of the following:

1) Be at least partially located (e.g., at least one transit stop) within a DAC;

2) Be at least partially located (e.g., at least one transit stop) within a low-income community;

3) Be located outside of a DAC but within 1/2 mile of a DAC and within a low-income community census tract;

4) Specifically for consumer-based incentives, such as vouchers, rebates, transit passes, or free-fare days, the incentive must benefit a resident of a DAC, a low income community, or of a low income household, meaning the incentive is distributed within the priority population census tracks and is made available to the community residents; or,

5) Provide jobs or job training to residents of low-income households.

According to the 2017-18 final draft guidelines for LCTOP, in order to meet the 50% DAC requirement, transit agencies must spend at least 50% of LCTOP funds on projects within a DAC that provide benefit to individuals living in the DAC. The guidelines further state that "the agency is required to provide a detailed description of the criteria used to evaluate if a project provides direct, meaningful, and assured benefit(s) to the DAC and meaningfully address an important community need(s)."

Roughly two-thirds of transit agencies in the state include one or more DACs. A DAC might be as little as a single census tract (several thousand people) or could constitute a large portion of a transit agency's jurisdiction. Regardless, a transit agency with at least one DAC must meet the 50% DAC requirement under LCTOP. In addition, as noted above, because LCTOP is funded by GGRF monies, LCTOP allocations must meet AB 1550 requirements on GGRF spending. All recipients of LCTOP funding must report to Caltrans on their compliance with all statutory requirements, including DAC requirements, and Caltrans is authorized to conduct spot audits and onsite monitoring of projects. Transit agencies that fail to meet all program requirements risk of the state recovering funds spent and being barred from future LCTOP funds.

This bill would streamline the priority communities requirements for transit agencies, both DAC and low income communities and households. Specifically, the bill waives the DAC requirements and deems that transit agencies have met the low income requirements if the agency spends its LCTOP funds on:

a) New or expanded transit service that connects with transit service serving disadvantaged communities or in low income communities;

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

d) The purchase of zero emission transit buses and supporting infrastructure.

According to one of the bill's sponsors, the California Transit Association, "Since the creation of the LCTOP, transit agencies have found it increasingly difficult to meet the stringent disadvantaged community requirements associated with the program. In many cases, a transit agency may only have a handful of census tracts defined as disadvantaged communities and under current law, despite significant investments in these areas, must continue to invest their funds in these census tracts."

Further, "In most instances, transit serves California's low-income populations & disadvantaged community residents, and it serves them across the system, not just in a particular census tract. As such, this bill would allow public transit agencies to more effectively and efficiently utilize their funding shares by waiving the disadvantaged community requirements for certain types of expenditures – transit passes and expanded or improved bus service. This additional flexibility would enable transit systems to attract & maintain more riders and improve bus service across entire trips, all while meeting the LCTOP's primary goal – reducing greenhouse gas emissions."

For an example of the difficulties some transit agencies face in meeting the DAC requirements, the co-sponsor of the bill, the Orange County Transportation Authority (OCTA) provided information on an LCTOP project for reduced fare transit passes for students. Specifically, OCTA used LCTOP moneys to provide a transit fare subsidy for all students at Santa Ana College for one year. When it was funded, the project was expected to increase bus ridership by 0.7% and reduce GHG emissions. The subsidies benefitted DACs by providing free transit service for students attending Santa Ana College that live in a DAC. At the time, 58.6% of the students attending the college lived in a DAC identified by CalEnviroscreen 2.0.

The previous year, according to OCTA, five transit agencies funded projects that provided free or reduced transit fare passes to students from their allocation of LCTOP funds. Only OCTA—whose service territory includes DACs, and therefore was the only agency subject to the 50% spending requirement, was able to focus these funds for the benefit of a DAC. In developing the transit pass funding application, OCTA and recipient universities expended significant resources in researching whether students could meet the stringent requirements relating to DACs.

According to OCTA, the Santa Ana College program is highly popular among its student body, with 88% of students no longer parking on campus, and over 99% recommending the program. Additionally, 14% of students reported they are now riding the bus for the first time, and 77% of those that already rode the bus report riding it more. While the first year of the program was completely subsidized with the use of LCTOP, LCTOP funding may no longer be used for this purpose because LCTOP is not intended to fund ongoing operations. Fullerton College has expressed interest in a similar, one-year program funded by LCTOP, but despite the college being surrounded by DACs, it does not meet the statutory threshold.

OCTA adds, "SB 1119 will provide the needed flexibility to allow the expansion of this program, further expanding transportation choices for students and residents of DACs. This will have the dual benefit of increasing ridership while simultaneously reducing congestion on local streets and roads."

Committee Comments: Transit agencies continue to find it difficult to meet the stringent requirements of the LCTOP program. SB 1119 streamlines the restrictions requiring transit agencies to spend 50% of funds exclusively in DACs and additional funds in other priority communities. Transit providers spend LCTOP funds on a variety of services, including new bus routes, reduced fare or free transit passes, free ride days, ticket integration to make it easier to ride, bicycle lockers at transit stations, solar lighting and facilities, and the purchase of zero-emission buses.

As noted above, current guidelines require that new bus service funded by LCTOP operate in a DAC. Overall, this type of restriction is inherently contrary to the way transit agencies plan and operate service throughout a sometimes vast territory. For example, if a resident of a DAC travels from their home to work, they may make a transfer to complete their trip or their destination may not be in a DAC. That final connection would not be eligible for funding from LCTOP. Additionally, as transit agencies move toward purchases of zero emission buses, including ARB's proposed Innovative Clean Transit (ICT) regulation, which would require the state's entire transit bus fleet to be zero-emission by 2040, LCTOP is very limited in its eligibility since the bus must be used only on a line with stops in a DAC. Many transit agencies use their buses on multiple routes and may not have the charging infrastructure located in a DAC.

Additionally, this committee has previously approved legislation to create programs to fund reduced fare transit passes for students. Studies have shown that encouraging people to learn about and feel confident using public transportation at a young age can make a lifelong transit rider. Requiring schools and universities to prove that a certain amount of their student population reside in DACs raises some questions, including potential privacy concerns and whether the requirement is impeding a wider deployment of such popular programs.

As the state and regions continue to work toward the goal of reducing GHG emissions, as well as cutting other forms of air pollution, as set forth in AB 32 and SB 32, increasing the mode shift from single occupant car trips to public transportation is critical for success. Making funding programs like LCTOP more flexible for transit agencies to enhance service system wide, move to cleaner fleets, and implement innovative ideas like student transit passes or fare intergradation will go a long way to entice new and permanent riders.

Related Legislation: AB 2304 (Holden) requests the University of California Institute of Transportation Studies to prepare and submit a report on reduced fare transit pass programs to the Governor and Legislature by January 1, 2020. AB 2304 is in the Senate Rules Committee awaiting referral to a policy committee.

Previous Legislation: AB 17 (Holden) of 2017, would have created a transit pass pilot program administered by Caltrans. AB 17 was vetoed by the Governor.

SB 824 (Beall), Chapter 479, Statutes of 2016, modifies the LCTOP to provide enhanced flexibility to recipient transit agencies for program expenditures, as specified.

AB 2222 (Holden) of 2016, would have created a transit pass program administered by Caltrans. AB 222 was held on the Senate Appropriations Committee suspense file.

AB 2090 (Alejo) of 2016, would have authorized 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 was held on the Senate Appropriations Committee suspense file.

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)
Orange County Transportation Authority (Sponsor)
City of Thousand Oaks
Metropolitan Transportation Commission
Monterey –Salinas Transit
Peninsula Corridor Joint Powers Board (Caltrain)
San Mateo County Transit District

Opposition

None on file

Analysis Prepared by: Melissa White / TRANS. / (916) 319-2093