SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2021 - 2022 Regular

Bill No:	SB 942		
Author:	Newman		
Version:	2/8/2022	**Hearing Date:**	3/28/2022
Urgency:	No	**Fiscal:**	Yes
Consultant:	Eric Walters		

SUBJECT: Low Carbon Transit Operations Program: free or reduced fare transit program

DIGEST: This bill allows transit agencies who use Low Carbon Transit Operations Program (LCTOP) moneys to fund free or reduced fare transit programs to continue using those moneys for ongoing operating costs. It further eliminates the requirements to annually demonstrate greenhouse gas (GHG) emission reductions and document other program details, as specified.

ANALYSIS:

Existing law:

1) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and allows ARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (Health and Safety Code (HSC) §§ 38566, 38562)

2) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all moneys, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. (Government Code §16428.8

3) Defines disadvantaged community (DAC) to mean the 25% most pollution-burdened communities identified by the CalEnviroScreen 3.0 tool, and requires minimum amounts of GGRF moneys to benefit those communities, as specified. (HSC §39711 et seq.)

4) Establishes the Low Carbon Transit Operations Program (LCTOP) to provide operating and capital assistance for transit agencies to reduce GHG emissions and improve mobility, with a priority on serving DACs. (Public Resources Code §75230 et seq.)

This bill:

1) Permits transit agencies who use LCTOP moneys to fund a free or reduced fare transit program to continue to use those moneys and continue operating that program without demonstrating continued eligibility or to submit further documentation, as specified.

2) States that transit agencies using LCTOP moneys to continue funding a free or reduced fare transit program are not required to demonstrate that reductions in GHG emissions can be realized.

Background

1) *Low Carbon Transit Operations Program (LCTOP)*. LCTOP is one of several programs established by the Legislature in SB 862 (Committee on Budget and Fiscal Review, Chapter 36, Statutes of 2014). The legislation also continuously appropriates GGRF revenues as follows: 25% for the state's high-speed rail project, 20% for affordable housing and sustainable communities grants, 10% to the Transit and Intercity Rail Capital Program, and 5% for LCTOP.

   LCTOP was created to provide operating and capital assistance for transit agencies to reduce GHG emissions and improve mobility, with a priority on serving disadvantaged communities. LCTOP funding is not competitive, it is formula-based. As such, there are several statutory requirements placed on using LCTOP moneys. Specifically, recipient transit agencies must demonstrate that (1) each expenditure reduces GHG emissions and does not supplant another source of funds, and (2) projects directly enhance or expand transit service, increase transit mode share, or are for purchasing zero-emission buses and/or infrastructure. The California Department of Transportation (Caltrans) administers LCTOP, reviewing applications and making grants pursuant to the formula and the guidelines it adopts for the program.

   Since LCTOP began in 2014, according to the 2021 California Climate Investments report, the program has received over $558 million dollars (with $225 million of that being from 2021-2022 alone). These $558 million dollars have funded 719 projects and led to an estimated 6.2 million metric tons of CO_2 emissions reduced, for a cost-effectiveness of $90 per ton of reduction. To date, 97% of this money has benefited DACs, low-income communities, and/or low-income households.

2) *Free and reduced-fare transit passes*. A 2020 University of California Institute of Transportation Studies (ITS) report reviewed free or reduced-fare transit

pass programs in California. It found that free or reduced-fare transit passes had the potential to increase transit ridership, enhance the mobility of disadvantaged groups, make it easier for children to go to school and participate in after-school activities, and reduce the environmental footprint of transportation. Furthermore, under the right conditions, the report found that these programs can also reduce traffic congestion and motor vehicle use.

Specific parameters vary between different free and reduced fare transit programs (such as eligibility for the program, areas served, and the composition of the transit and local non-transit fleets). Despite these differences making quantitative, apples-to-apples comparisons of GHG emission reductions challenging to conduct, it is generally accepted that free and reduced fare transit programs have a reductive effect on GHG emissions. Lower financial barriers to using transit lead to more transit riders, who lead to fewer personal vehicles on the road, which leads to reduced GHG emissions.

Comments

1) *Purpose of Bill.* According to the author, "Public transit is a critical component of California's fight to reduce harmful emissions. Subsidized youth ridership transit programs are a proven tool to expand access to public transit and create lifelong riders. Transit ridership has been hit hard by the pandemic, therefore, public transit providers need a myriad of tools to help in the recovery of their systems. SB 942 provides flexibility for transit agencies throughout the state to use existing cap and trade funds to rebuild ridership and create transit riders for life."

2) *Can LCTOP be used for operating costs?* The enabling statute for LCTOP states that the program was, "… created to provide **operating and capital** assistance for transit agencies to reduce greenhouse gas emissions and improve mobility…" (emphasis added). However, whether or not LCTOP recipients are permitted to receive ongoing funding to support free and reduced fare transit programs remains unclear.

   In the information provided to the committee, SB 942's author states, "Current statutes and regulations governing LCTOP create barriers that preclude the use of LCTOP funds for long-term funding. Under the terms of the current guidelines articulated in the statute, a transit agency can only use LCTOP funds once, as part of the launch of a local program. The current guidelines do not afford a transit agency the ability to utilize these same funds on an ongoing basis for the continuation of a free- or reduced-fare program that would otherwise meet the criteria governing the program's stringent requirements."

In 2018, SB 1119 (Beall, Chapter 606) waived some of the requirements LCTOP initially placed upon certain grantees to make it easier for transit agencies to provide free and reduced fare transit programs. However, SB 1119 did not address the issue of ongoing program funding by LCTOP. The 2018 Senate Environmental Quality committee analysis of SB 1119 stated, "ARB has also reasonably interpreted the requirement that each expenditure of LCTOP moneys does not supplant another source of funds to mean that funds can only be spent on a specific project once. That is to say, LCTOP is strictly a capacity-building program that cannot fund ongoing operations."

It is clear that there are differing interpretations of LCTOP's enabling statute. This bill, SB 942, would further loosen the requirements on certain LCTOP recipient transit agencies, and it would ensure that LCTOP funds can be used to fund operating expenses on an ongoing basis.

3) *Cost-benefit tradeoff*. The proposed changes to the LCTOP statute represent a tradeoff between transparency and administrative burden. On one hand, implementing transit agencies would no longer annually submit GHG emission reduction estimations to ARB, potentially complicating calculations of the state's GHG inventory and reducing accountability. On the other hand, the implementing transit agencies could be more certain that ongoing funding would be secured for free or reduced fare programs, and they would no longer need to expend time and resources submitting updated information.

   In analyzing the LCTOP statute and the CalTrans guidance documents provided to transit agencies, it is not entirely clear which statutory provisions are tied to which aspects of the program as it functions today. *Should this bill continue through the legislative process, the author should work closely with CalTrans and ARB to ensure there are no unintended consequences to language in SB 942 which could interrupt the reporting of needed information to ARB regarding GHG emission reductions*.

   There are two questions before the committee regarding SB 942. First, should ongoing funding of operating expenses for free and reduced fare transit programs be clearly permitted in the LCTOP statute? Secondly, are the existing reporting requirements duplicative and burdensome for agencies seeking ongoing funding, or are they necessary for accountability and accurate GHG accounting?

   Going forward the author may wish to refine exactly what information *recipient agencies should be required to submit annually. It seems reasonable that recipient agencies should not need to completely apply anew each year, but it also is important that any changes to the populations eligible, the areas served, or the fleets affected be reflected in state-level accounting.*

DOUBLE REFERRAL:
This measure was heard in Senate Transportation Committee on March 22, 2022, and passed out of committee with a vote of 16-0.

Related/Prior Legislation

SB 1119 (Beall, Chapter 606, Statutes of 2018) allowed recipient transit agencies that provided discounted or free student transit passes to no longer prove that each expenditure reduced GHG emissions, did not supplant another source of funds, or directly enhanced or expanded transit service.

SB 862 (Committee on Budget and Fiscal Review, Chapter 36, Statutes of 2014) established a long-term cap-and-trade expenditure plan by continuously appropriating portions of the funds for designated programs or purposes. The legislation appropriates 25% for the state's high-speed rail project, 20% for affordable housing and sustainable communities grants, 10% to the Transit and Intercity Rail Capital Program, and 5% for low-carbon transit operations. The remaining 40% is available for annual appropriation by the Legislature.

SOURCE: Orange County Transit Agency

SUPPORT:

California Transit Association
Mobility 21
Monterey-Salinas Transit District
San Mateo County Transit District (SAMTRANS)
Ventura County Transportation Commission

OPPOSITION:

None received

-- END --