AMENDED IN ASSEMBLY MAY 19, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 672

Introduced by Assembly Members Bass and Eng

February 25, 2009

An act *to amend Section 8879.72 of, and* to add Section 8879.501 to, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 672, as amended, Bass. Transportation: bond-funded projects: letter of no prejudice.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of $19.925 billion of general obligation bonds for various transportation purposes. Existing law designates the state agency responsible for programming bond funds under the act as the administrative agency for those purposes.

This bill would authorize a regional or local agency that is a lead agency for a project ~~that is programmed for bond funding on or after July 1, 2008,~~ *or project component for which bond funding has been programmed, allocated, or otherwise approved by the administrative agency or is otherwise targeted to be available, as specified* to apply to the administrative agency for a letter of no prejudice that would allow the regional or local agency to expend ~~its own~~ funds for ~~any bond-funded component of~~ the project *or project component*, subject to later

reimbursement from bond proceeds *under certain conditions*, as specified.

Existing law requires the California Transportation Commission to establish the funding shares for applicants for funds from the State-Local Partnership Account in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Fund of 2006.

This bill would require the commission, prior to the commencement of each funding cycle, to calculate the amount of bond funds designated to be d3eposited in the account that have not been appropriated and would authorize the commission to establish projected targets for the allocation of those funds for purposes of planning projects for which letters of no prejudice may be issued, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to enhance the ability of regional and local government entities
3 to deliver critical transportation capital improvement projects in
4 an expeditious manner.
5 SEC. 2. Section 8879.501 is added to the Government Code,
6 to read:
7 8879.501. (a) A regional or local agency that is a lead applicant
8 agency for a project that ~~is programmed for funding on or after~~
9 ~~July 1, 2008,~~ *may be funded* pursuant to Chapter 12.49
10 (commencing with Section 8879.20), *other than a project that may*
11 *be funded pursuant to paragraph (1) of subdivision (j) of Section*
12 *8879.23*, may apply to the administrative agency for a letter of no
13 prejudice for the project *or a component of the project.* ~~If approved~~
14 ~~by the administrative agency, the letter of no prejudice shall allow~~
15 ~~the regional or local agency to expend its own funds for any~~
16 ~~bond-funded component of the project.~~
17 ~~(b) A project may be considered for a letter of no prejudice and,~~
18 ~~upon issuance of the letter of no prejudice, shall be eligible for~~
19 ~~reimbursement under this section if all of the following apply:~~
20 ~~(1) The administrative agency makes an allocation for the project~~
21 ~~pursuant to Section 8879.50.~~
22 ~~(2) The project~~ *The administrative agency may approve the*
23 *letter of no prejudice for one or more projects or project*

components that the administrative agency has programmed, allocated, or otherwise approved for funding. The letter of no prejudice shall reference the project or component thereof and the amount of bond funding that is programmed, allocated, or otherwise approved for that project or project component or, in the case of a project or project component eligible for funding under subdivision (g) of Section 8879.23, the letter may reference the amount of bond funding targeted to be received by the regional or local agency pursuant to subdivision (f) of Section 8879.72. The administrative agency may approve a letter of no prejudice regardless of whether bond funding has been previously appropriated for purposes of the project or project component. The letter of no prejudice shall indicate that reimbursement of funds to a regional or local agency is dependent on availability of bond funds and the amount to be reimbursed may decrease or be less than the amount stated in the letter.

(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for reimbursement from the applicable bond proceeds fund or account if all of the following apply:

(1) The project or project component for which the letter of no prejudice was requested has ~~been completed~~ *commenced and local expenditures have been incurred.*

~~(3)~~

(2) The expenditures made by the regional or local agency are eligible for reimbursement in accordance with state and federal laws and procedures, *and are permitted expenditures under the applicable provisions of Chapter 12.49 (commencing with Section 8879.20).* If expenditures made are determined to be ineligible, then the state has no obligation to reimburse for those expenditures.

~~(4)~~

(3) The regional or local agency complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

~~(c) Upon execution of an agreement with the administrative agency to transfer reimbursement funds for a project described in subdivision (a), the administrative agency may delay reimbursement pursuant to this section only if cash management~~

~~issues prevent immediate repayment and upon the advice of the Treasurer.~~

(4) The expenditures were incurred after applicable letter of no prejudice was issued.

(5) There is in the applicable bond proceeds fund or account under Chapter 12.49 (commencing with Section 8879.20) an appropriated amount sufficient to make the reimbursement payment. Nothing in this section requires any bond proceeds fund or account to be funded at any particular time or in any particular amount.

(c) The administrative agency and the regional or local agency may enter into an agreement or agreements governing reimbursement as described in this section.

(d) The administrative agency, in consultation with regional and local agencies, may develop guidelines to implement this section.

(e) Nothing in this section modifies any requirement under Chapter 12.49 (commencing with Section 8879.23).

(f) For purposes of this section, "letter of no prejudice" means an agreement between a regional or local agency and the administrative agency that allows the regional or local agency to expend its own funds, subject to reimbursement of bond proceeds, as provided in this section.

SEC. 3. Section 8879.72 of the Government Code is amended to read:

8879.72. (a) To establish the funding shares for each eligible applicant described in paragraph (1) of subdivision (a) of Section 8879.71, the commission shall do the following prior to the commencement of a funding cycle:

(1) Determine the total amount of annual revenue generated from voter-approved sales taxes, voter-approved parcel or property taxes, and voter-approved bridge tolls dedicated to transportation improvements according to the most recent available data reported to the State Board of Equalization, the Controller, or the Bay Area Toll Authority.

(2) Establish a northern California and southern California share by attributing the proportional share of revenues from voter-approved sales taxes, voter-approved parcel or property taxes, and voter-approved bridge tolls dedicated to transportation improvements and imposed in counties in northern California to

1 the northern share, and by attributing the proportional share of
2 revenues from voter-approved sales taxes imposed in counties
3 located in southern California to the southern share. The
4 determination of whether a county is located in northern or southern
5 California shall be based on the definitions set forth in Section 187
6 of the Streets and Highways Code.
7 (3) Program funds made available to the southern share, based
8 on the determination in paragraph (2), shall be distributed to the
9 entity responsible for programming and allocating revenues from
10 the sales tax in proportion to the population of the county in which
11 the entity is located compared to the total population of southern
12 California counties with voter-approved sales taxes dedicated to
13 transportation improvements. For the purpose of calculating
14 population, the commission shall use the most recent information
15 available from the Department of Finance.
16 (4) Program funds made available to the northern share, based
17 on the determination in paragraph (2), shall be distributed as
18 follows:
19 (A) Program funds generated by voter-approved bridge tolls
20 and voter-approved parcel or property taxes dedicated to
21 transportation improvements shall be distributed to the entity
22 responsible for programming and allocating revenues from the toll
23 or tax based on the proportional share of revenues generated by
24 the toll or tax by that entity in comparison to the total revenues
25 generated by voter-approved sales taxes, voter-approved parcel or
26 property taxes, and voter-approved bridge tolls dedicated to
27 transportation improvements in northern California.
28 (B) Program funds generated by voter-approved sales taxes
29 dedicated to transportation improvements shall be distributed to
30 the entity responsible for programming and allocating revenues
31 from the sales tax in proportion to the population of the county in
32 which the entity is located compared to the total population of the
33 northern California counties with voter-approved sales taxes
34 dedicated to transportation improvements. For the purposes of
35 calculating population, the commission shall use the most recent
36 information available for the Department of Finance
37 (b) Under this section, each fiscal year in which funds are
38 appropriated for the program shall constitute a funding cycle.

(c) Each eligible applicant desiring to participate in the program in any funding cycle under this section shall submit to the commission all of the following:

(1) A description of the eligible project nominated for funding, including a description of the project's cost, scope, and specific improvements and benefits it is anticipated to achieve.

(2) A description of the project's current status, including the phase of delivery the project is in at the time it is nominated for funding and a schedule for the project's completion.

(3) A description of how the project would support transportation and land use planning goals within the region.

(4) The amount of eligible local matching funds the applicant is committing to the project.

(5) The amount of program funds the applicant seeks from the program for the project.

(d) The commission shall review nominated projects under this section and their accompanying documentation to ensure that each nominated project meets the requirements of this article and to confirm that each project has a commitment of the requisite amount of eligible local matching funds as required in this article. Upon conducting the review of the requirements and determining the proposed projects to be in compliance with this article, the projects shall be deemed eligible.

(e) An eligible applicant that is identified to receive an allocation of funds under this section, but that does not submit a project for funding in a funding cycle, may utilize its funding share in a subsequent funding cycle.

(f) In addition to the requirements in subdivision (a), the commission shall, prior to the commencement of a funding cycle, calculate the amount of bond funds specified in subdivision (g) of Section 8879.23 that have not been appropriated and may establish, using the distribution formula set forth in subdivision (a) of Section 8879.71, projected targets for the allocation of those funds for the purpose of planning consistent with Section 8879.501. The commission shall annually review and revise these projected targets.

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