

PLATINUM | ADVISORS

June 28, 2023

TO: Joel Young, President, AC Transit Board of Directors
Members of the AC Transit Board of Directors
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FR: Steve Wallauch
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RE: Legislative Update

With the clock ticking for the Governor to sign or veto SB 101, the main budget bill that was approved on June 15th, an agreement was reached between the Governor and Legislature on numerous spending changes and over 20 budget trailer bills. On June 27th the legislature sent the Governor several budget bill juniors that amend appropriations in SB 101, and 20 budget trailer bills that make the statutory changes needed to implement the agreement. With those bills in hand, Governor Newsom signed SB 101, and we await action on the remainder of the budget trailer bills.

The \$310 billion spending plan does not dip into state reserves, which now stands at \$38 billion. The deficit was bridged through fund swaps, \$8 billion in spending delays and \$8 billion in spending reductions. The budget does restore \$2 billion in general fund spending on transit projects through the Transit and Intercity Rail Capital Program (TIRCP), and reallocates \$410 million in funds to create the Zero Emission Transit Capital Program. Both of these funding programs will be distributed via a statewide formula and can be used for either capital or operations.

The key sticking point for negotiations centered around the Governor's "infrastructure package." Governor Newsom threatened to veto the budget if an agreement was not reached. The infrastructure package consisted of numerous statutory changes aimed at accelerating the development of clean energy projects. However, the original proposal also included provisions to allow the Delta tunnels project to proceed, which was a lightning rod of controversy and was ultimately dropped. The final agreement included the following measures that will be moved to the Governor in the next few days.

- **SB 145 (Newman)** Environmental mitigation: Department of Transportation
- **SB 146 (Gonzalez & Friedman)** Public resources: infrastructure: contracting.
- **SB 147 (Ashby)** Fully protected species: California Endangered Species Act: authorized take

- **SB 149 (Caballero & Becker)** California Environmental Quality Act: administrative and judicial procedures: record of proceedings: judicial streamlining
- **SB 150 (Durazo, et al)** Construction: workforce development: public contracts.

Transit Relief Package

- SB 101 restores the \$2 billion in TIRCP funds the Governor proposed to cut in January, and allows flexibility to use those funds for operations. SB 101 specifies that a minimum of \$300,000 in TIRCP funds would be allocated to each region, and the balance would be allocated to each region based on population. These funds can be used for either capital or operating costs. If a region uses this TIRCP allocation for operations, AB 125 does require specified reporting requirements to be developed as outlined below.
- SB 101 included various appropriations totaling \$811 million in the 2023-24 fiscal year for the Zero Emission Transit Capital Program (ZETBP). This is part of a \$1.1 billion commitment made by the Legislature. The budget bill junior, AB 102, reduces this funding commitment in the budget year by half, from \$811 million to \$410 million.

AB 102 makes the following changes to the appropriations in SB 101:

- General fund allocation of \$200 million eliminated in AB 102
- Public Transportation Account allocation reduced from \$280 million to \$190 million.
- Greenhouse Gas Reduction Fund allocations reduced from \$331 million to \$220 million.

Pursuant to AB 125, the trailer implementing this program, the Zero Emission Transit Capital Funds would be allocated to each region based on the STA formula, which includes half allocated based on population and half allocated based on ridership numbers. While it is unclear what base year will be used for this allocation, it is assumed the formula will be based on pre-pandemic ridership numbers because the STA formula has been frozen for the past several years.

While funds the budget only includes \$410 million for the ZETBP, the agreement includes a multi-year funding commitment. The commitment includes appropriating \$230 million annually in auction revenue from 2024-25 through 2026-27. The funds committed to ZETBP total \$1.1 billion over 4 years.

- AB 125 also extends until the end of the 2025-26 fiscal year existing provisions that temporarily eliminate financial penalties for noncompliance with transit funding efficiency measures in the Transportation Development Act and the State Transit Assistance Program.

Accountability Measures: AB 125 directs CalSTA to develop and administer an accountability program to govern the distribution of funds made available to CalSTA for the Zero-Emission Transit Capital Program and the General Fund component of the Transit and Intercity Rail Capital Program. CalSTA is required to hold at least one public hearing on developing the guidelines, and CalSTA must consult with local and regional transportation planning entities and transit operators

on the development of the accountability guidelines. The guidelines governing the 2023-24 allocation must be adopted by September 30, 2023.

A regional transportation planning agency may receive an allocation of funds if both of the following conditions are met:

- The regional transportation planning agency submits, and CalSTA approves, a regional short-term financial plan for immediate service retention consistent with the adopted guidelines. If a regional transportation planning agency elects to use these funds for operations for any of its transit operators in the 2023–24 fiscal year or forecasts operational need between the 2023–24 and 2026–27 fiscal years, inclusive, for any of its transit operators, then it shall submit a regional short-term financial plan.
- The regional transportation planning agency submits to the agency regionally compiled transit operator data that is consistent with the requirements included in the adopted guidelines, and is compiled in coordination with transit operators providing services within the jurisdiction of the regional transportation planning agency.

The regional short-term financial plan shall include:

- A demonstration of how the region will address any operational deficit, using all available funds.
- Justification for how the region’s funding is proposed to be allocated to capital and operational expenses.
- A detailed breakdown and justification for how the funding is proposed to be distributed between transit operators and among projects.
- A demonstration of how the plan will mitigate service cuts, fare increases, or layoffs relative to a 2022 service baseline to achieve short-term financial sustainability.
- A summary of how the plan will support ridership improvement strategies that focus on riders, such as coordinating schedules and ease of payment and improving cleanliness and safety, to improve the ridership experience.

The transit operator data submitted by the regional agency shall include:

- Existing fleet and asset management plans by transit operator.
- Revenue collection methods and annual costs involved in collecting revenue for each transit operator and regional transportation planning agency involved.
- A statement of existing service plan and planned service changes.
- Expenditures on security and safety measures.
- Opportunities for service restructuring, eliminating service redundancies, and improving coordination amongst transit operators, including, but not limited to, consolidation of agencies or reevaluation of network management and governance structure.
- Schedule data in General Transit Feed Specification (GTFS) format to enable full visibility of service and service changes where feasible.

Transit Transformation Task Force: AB 125 requires the creation of the Transit Transformation Task Force, which shall be formed by January 1, 2024.

- The Task Force shall consist of transit operators, both small and large operating in urban and rural jurisdictions, Caltrans, local governments, metropolitan planning organizations, regional transportation planning organizations, transportation advocacy organizations with expertise in public transit, labor organizations, academic institutions, the Senate Committee on Transportation, the Assembly Committee on Transportation, and other stakeholders, as appropriate. Transit operators included on the task force shall include a mix of agencies that provide bus-only service, rail-only service, ferry-only service, and multimodal service.

The Task Force shall submit a report by October 1, 2025, that addresses the following items:

- The services provided by transit agencies and the demographics of transit ridership, with detail on services provided, including persons with disabilities, or specific populations like low-income individuals and students.
- Existing funding sources for transit with a breakdown of funding available for capital and operations, including any constitutional and statutory limitations on these existing funding sources.
- The use of money from local transportation funds established pursuant to Section 29530 for other modes, such as streets and roads.
- The cost to operate, maintain, and provide for the future growth of transit systems for the next 10 years.
- The costs and operational impacts associated with federal, state, and local mandates, including, but not limited to, the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the State Air Resources Board's Innovative Clean Transit regulations (Article 4.3 (commencing with Section 2023) of Chapter 1 of Division 3 of Title 13 of the California Code of Regulations), to the extent feasible.
- Workforce recruitment, retention, and development challenges, impacting transit service.
- Existing policies on state and local metrics to measure transit performance.
- State and local policies that impact service efficiency and transit ridership, including, but not limited to, transit prioritization on roads, land use, housing, and pricing policies.
- Identification of state departments and agencies that have responsibility for transit system oversight, grant administration, and reporting.
- Information on how transit agencies modified their services in response to the COVID-19 pandemic and resulting drop in ridership and revenue.
- The division of transit funding between capital and operations.

The Task Force report shall also include recommendations on the following:

- How to improve mobility and increase ridership on transit.
- Changes to land use, housing, and pricing policies that could improve public transit use.
- Strategies to address workforce recruitment, retention, and development challenges.
- Reforming the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code), including, but not limited to, replacing

the fare box recovery ratios and efficiency criteria with performance metrics that better measure transit operations.

- Identification of the appropriate state department or agency to be responsible for transit system oversight and reporting.
- New options for revenue sources to fund transit operations and capital projects to meet necessary future growth of transit systems for the next 10 years.
- The potential of transit-oriented development and value capture of property around transit stations as a source of sustainable revenue for transit operations.