

## AB 1113 (Bloom)

### Restoring Longstanding State Transit Assistance Program Allocation Methodology

#### Background: California Transit Association Hits “Pause Button” in 2016

In Fiscal Year 2015-2016, the State Controller’s Office (SCO) implemented new calculation and allocation methodologies for the State Transit Assistance (STA) program, suddenly changing the way these vital funds are distributed. These STA grant funds – which are allocated to regions by the State Controller, for sub-allocation to each region’s transit operators, based on a long-understood formula that matches dollars to areas with half in proportion to each area’s population compared to the state and half in proportion to a calculation of each transit operator’s “revenue” compared to the statewide total – are vital to the ongoing operations and capital projects of about 145 public transit systems statewide.

Towards that end, and recognizing that many transit operators budgeted for 2015-16, and even for the 2016-17 year, based on a longstanding understanding of how the program works – the Association acted to advocate that the Legislature use the 2016-17 Budget Act to compel the State Controller to use the long-understood methodology, as reflected in the 2014-15 fourth quarter published allocations, for any remaining unallocated funds in the 2015-16 year (quarters three and four), and, for all funds to be allocated in 2016-17 and 2017-18. These changes were made law by SB 838 (Committee on Budget and Fiscal Review) [Chapter 339, Statutes of 2016].

That short-term “pause button” gives the transit industry and state officials up to two years to come up with a long-term solution.

Thus, in parallel, the Association convened interested stakeholders to develop a long-term policy proposal for the Legislature’s subsequent consideration and enactment, clarifying any ambiguities in the existing law and setting the rules more clearly going forward.

#### 2017 Proposal: AB 1113 (Bloom)

The California Transit Association proposes in AB 1113 (Bloom) that the statutes governing the STA program be amended to clarify several ambiguities that led to the SCO’s 2016 administrative changes. Our clarifications would, we believe, restore operation of the program to how it was *supposed* to run, before the 2016 administrative changes.

#### Principles

AB 1113 (Bloom) is based on these principles:

1. Preserve the *status quo* for distribution of Local Transportation Funds and any other requirements of the Transportation Development Act not directly related to the STA program.
2. Clarify to which entities transportation planning agencies may directly allocate STA program funds, i.e. we need to define more clearly an “STA-eligible transit operator.”
3. Clarify that only local revenue, used to operate public transit service, may be reported to the Controller by transit operators, for purposes of the SCO calculating revenue shares for STA-eligible transit operators.
4. Create statutory clarifications and pathways for state-agency administrative procedures and policies that are no longer based on current data or extant circumstances.

## Specific Proposals

From these principles, and after conversations with numerous stakeholders, we propose in AB 1113 (Bloom) the following specific statutory changes:

- A. Definition of an STA-eligible transit operator, for PUC 99314 revenue shares:
- The only entities eligible to receive STA program funds allocated by transportation planning agencies pursuant to Section 99314 of the Public Utilities Code are public transportation operators eligible to claim Local Transportation Funds under Article 4 or Article 8 of the Transportation Development Act, or, under both articles. These entities would be called “STA-eligible operators.”
  - “Public transportation operator” has the same meaning as “operator,” as that term is defined in Section 99210 of the PUC, as long as that operator operates a “public transportation system,” as that term is defined in Section 99211 of the PUC.
    - Per current law, “operator” means any transit district, included transit district, municipal operator, included municipal operator, or transit development board...
    - Per current law, “public transportation system” means any system of an operator which provides transportation services to the general public by any vehicle which operates on land or water, regardless of whether operated separated from or in conjunction with other vehicles.
  - A public transportation operator may further suballocate funds it receives pursuant to Section 99314 of the PUC, to a provider of local community transit that is otherwise ineligible to receive such funds directly.
  - Funds received pursuant to Section 99314 of the PUC may be expended by STA-eligible operators for community transit services, including on payments or allocation to entities eligible to claim Local Transportation Funds under Article 4.5 of the Transportation Development Act or pursuant to Section 99275 of the PUC.
- B. Roles & responsibilities of Caltrans and the State Controller in determining regional population, for PUC 99313 population shares:
- The Controller shall base population allocations, pursuant to Section 99313 of the PUC, on a report provided to it by the Department of Transportation on or before June 30<sup>th</sup> of each year detailing the population of each transportation planning agency. For the purpose of this report, the Department of Transportation shall utilize the most recent population estimates provided by the Department of Finance.
  - To assist the Department of Transportation in determining the amount of funding to be provided to the following entities pursuant to subdivision (c) of Section 99312 of the PUC, on or before June 1 of each year, the San Diego Metropolitan Transit Development Board, the San Diego Association of Governments, the El Dorado County Transportation Commission, the Placer County Transportation Planning Agency, and the Tahoe Regional Planning Agency shall provide the Department of Transportation with the population figures applicable to their respective jurisdictions using the most recent population estimates provided by the Department of Finance.
- C. Definition of revenue that must be reported to the SCO by an operator for purposes of PUC 99243, and which the SCO must use to calculate each operator’s revenue share for purposes of PUC 99314:
- The amount of STA program funds allocated by the State Controller to a transportation planning agency shall be based on the ratio that the total qualifying revenue of all STA-eligible operators in the area under its jurisdiction bears to the total qualifying revenue of all the STA-eligible operators in the state.
  - “Qualifying revenue” means fare revenues, including fares generated for community transit service under contract with the operator, and any other funds used by the operator in the delivery of transit service, except federal and state funds. The revenue amount for each operator shall be determined from the annual report submitted to the Controller pursuant to Section 99243 of the PUC. Revenue used

for capital expenditures or depreciation does not constitute qualifying revenue.

- The treatment of the two commuter rail agencies mentioned in the STA program statutes – the Altamont Corridor Express and the Southern California Regional Rail Authority – shall not change.
- The Controller shall determine allocation amounts pursuant to this section and Section 99314.3 of the PUC based on the qualifying revenue reported two years prior to the fiscal year in which the funds are allocated.
- Qualifying revenue for a given fiscal year shall not exceed a transit operator's annual operating expenses, as reported to the Controller. Operating expenses include, but are not limited to, the direct cost of operating transit service, and costs for community transit service provided by entities that are not eligible to receive funds directly pursuant to subdivision (a) of Section 99314.5 of the PUC, administrative costs, and routine maintenance. Operating expenses do not include transfers from an operating budget to a capital account.
- The Controller shall require operators claiming funds under this section to submit an audited Transit Operators' Financial Transaction Report within 180 days following the end of the fiscal year. Operators with revenue of less than ten million dollars may be exempt from the audit requirement.

D. Sub-allocation of revenue-based funds by transportation planning agencies:

- The amount allocated to each transportation planning agency and the San Diego Metropolitan Transit Development Board pursuant to Section 99314 of the PUC shall be allocated by such entity to the STA-eligible operators in the area of its jurisdiction.
- The amount allocated by a transportation planning agency and the San Diego Metropolitan Transit Development Board to each STA-eligible operator pursuant to Section 99314 of the PUC shall be based on the ratio that the operator's qualifying revenue bears to the total qualifying revenue of all the STA-eligible operators within the area of jurisdiction of the transportation planning agency. The Controller shall publish the share of funds corresponding with each individual operator as well as the total amount to be allocated to each transportation planning agency.

E. Community transit services:

- No revenue-share-based STA program funds allocated pursuant to Section 99314.3 of the PUC shall be allocated directly to a claimant for Local Transportation Funds under Article 4.5 of the Transportation Development Act that is exclusively operating community transit service that is not open to the general public for the purposes specified in Section 99275 of the PUC.
- An entity seeking funding for the community transit purposes specified in Section 99275 of the PUC may receive STA program funds as a subrecipient, at the discretion of either the transportation planning agency with respect to STA program funds distributed pursuant to Section 99313 of the PUC or at the discretion of an STA-eligible operator with respect to funds distributed pursuant to Section 99314.3 of the PUC.

## STA Program Background

The STA program allocation statutes are contained in the Public Utilities Code sections referred to as the Transportation Development Act, and have evolved over the decades since the program was first enacted. For most of the life of that longstanding program – since about 1982 – transit operators and regional transportation agencies have understood that:

- 50% of all STA program funds flow from the Controller to regions based on the **ratio of the population of each region** to the population of the state, and, each regional agency then determines how to sub-allocate those dollars to the transit operators in its jurisdiction.
- 50% of all STA program funds flow from the Controller to regions based on the **ratio of the locally-generated revenue of each transit operator in each region** to the locally-generated revenue of all transit operators in the state, and, each regional agency is then required to sub-allocate those dollars to the transit operators in its jurisdiction based on the ratios published by the Controller.

- The definition of “transit operator” for purposes of the Controller generating annually the list of eligible STA program funding recipients has long been understood to mean, essentially, an agency providing transportation service to the general public for which a fare is collected.

## The 2016 Problem

Various regional planning agencies over the years have sought clarification on the definition of “transit operator” and which organizations are eligible under the controlling statutes as a “claimant” for State Transit Assistance program funds. In response to some new questions of this nature in 2015, the Controller’s Office reconsidered its rationale for the longtime allocation practices, and the Controller’s legal counsel and implementing staff developed a new interpretation of the governing statutes and regulations; in this new interpretation, as reflected in the first quarter 2015-16 allocations released on January 16 of 2016, the Controller included in the definition of operators for which the Controller must calculate the “revenue” share of STA program funds **all public agencies who have reported financial data to the Controller in the previous year.**

Previous interpretations included mostly operators defined in Article 4 of the Transportation Development Act, but now include all those reporting as well under Article 4.5 or Article 8. **This added more than 100 new entities to the list of agencies for which the Controller calculates revenue.**

The Controller also broadened its interpretation of the regulatory guidance defining locally-generated “revenue.”

Finally, the Controller’s changes raised questions about whether **any operator is guaranteed its share of published “revenue basis” STA funds;** under the changes, the calculation was made by the Controller to determine how much of each quarterly statewide allocation goes to any particular region, whereas each region’s transportation planning agency would be solely responsible for determining sub-allocations to operators, i.e. now for 100% of STA funds, as opposed to the prior process whereby regions only determined sub-allocation of 50% of STA funds.

While our Executive Committee recognized that some agencies operating true public transportation services were added by the Controller to the list of entities for which revenue shares must be calculated to determine STA program eligibility – in other words, some deserving agencies that should probably be receiving STA funds – the Executive Committee was *more* concerned about the many unintended and potentially negative consequences of these administrative changes, **changes made without the benefit of industrywide consultation.**

For instance, because more than 100 new entities had been added to the pool of operators for which individual revenue shares must be calculated, many of our member agencies – especially in counties in which new entities were *not* added – saw their **STA shares diminished dramatically.** In addition, some **entities were added that do not, at first glance, appear to be true operators of public transportation service.**

Thus, we are supporting legislation to effectively return to the program as it was administered before the 2016 changes, with clarifications made to the statutes to ensure this outcome.

Please contact California Transit Association Executive Director Joshua W. Shaw ([josh@caltransit.org](mailto:josh@caltransit.org) or 916-446-4656) if you have any questions or concerns.