

CALIFORNIA CODES GOVERNMENT  
SB88 1B

## General Provisions

CALIFORNIA CODES GOVERNMENT

CODE SECTION 8879.50

### **8879.50.**

(a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

- (1) "Commission" means the California Transportation Commission.
- (2) "Department" means the Department of Transportation.
- (3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).
- (4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.
- (5) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.
- (6) "Fund" shall have the meaning as defined in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program's cost.

(c) The administrative agency for each bond account is as follows:

- (1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State and Local Partnership Program Account; the Local Bridge Seismic Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation and Preservation Account.
- (2) The Office of Homeland Security and the Office of Emergency Services are the administrative agencies for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.
- (3) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the

benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

- (1) Provide for the audit of project expenditures and outcomes.
- (2) Require that the useful life of the project be identified as part of the project nomination process.
- (3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

**8879.61.** (a) Entities described in subdivisions (a), (b), and (c) of Section 8879.57 receiving an allocation of funds pursuant to this article shall expend those funds within three fiscal years of the fiscal year in which the funds were allocated. Funds remaining unexpended thereafter shall revert to OHS or OES, as applicable, for reallocation in subsequent fiscal years.

(b) Entities that receive grant awards from funds allocated pursuant to subdivisions (b) or (c) of Section 8879.57 are not eligible to receive awards from the funds allocated pursuant to subdivision (a) of Section 8879.57.

(c) On or before May 1 of each year, OHS and OES shall report to the Legislature on their activities under this article. The report shall include a summary of the projects selected for funding during the fiscal year in which awards were made, as well as the status of projects selected for funding in prior fiscal years.

(d) Funds appropriated for the program established by this article in the Budget Act of 2007 shall be allocated consistent with the allocation schedule established in Section 8879.57.

**16727.** Proceeds from the sale of any bonds issued pursuant to this chapter shall be used only for the following purposes:

(a) The costs of construction or acquisition of capital assets. "Capital assets" mean tangible physical property with an expected useful life of 15 years or more. "Capital assets" also means tangible physical property with an expected useful life of 10 to 15 years, but these costs may not exceed 10 percent of the bond proceeds net of all issuance costs. "Capital assets" include major maintenance, reconstruction, demolition for purposes of reconstruction of facilities, and retrofitting work that is ordinarily done no more often than once every 5 to 15 years or expenditures that continue or enhance the useful life of the capital asset. "Capital assets" also include equipment with an expected useful life of two years or more. Costs allowable under this section include costs incidentally but directly related to construction or acquisition, including, but not limited to, planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements.

(b) To make grants or loans, if the proceeds of the grants or loans are used for the costs of construction or acquisition of capital assets. Bond proceeds may also be used to pay the costs of a state agency for administering the grant or loan program.

(c) To repay funds borrowed in anticipation of the sale of the bonds, including interest, or to pay interest on the bonds themselves.

(d) To pay the costs of a state agency with responsibility for administering the bond program. These costs include those incurred by the Treasurer, the Controller, the Department of Finance, and the Public Works Board for staff, operating expenses and equipment, and consultants' costs.

(e) The costs of the Treasurer's office directly associated with the sale and payment of the bonds, including, but not limited to, underwriting discounts, costs of printing, bond counsel, registration, and fees of trustees. Nothing in this section is intended to prohibit the investment of bond proceeds or the use of proceeds of those investments in any manner authorized by law.

## 60% Transit

### CALIFORNIA CODES GOVERNMENT

#### CODE SECTION 8879.57

**8879.57** Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section 8879.23, shall be allocated as follows:

(a) (1) Sixty percent of available funds shall be allocated for capital expenditures to agencies and transit operators eligible to receive State Transit Assistance funds pursuant to Sections 99313 and 99314 of the Public Utilities Code. Of these funds, 50 percent shall be allocated to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be allocated to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections. Funds allocated to the Metropolitan Transportation Commission pursuant to Section 99313 of the Public Utilities Code shall be suballocated to transit operators within its jurisdiction pursuant to Section 99314 of the Public Utilities Code.

(2) Eligible capital expenditures shall include either of the following: (A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other security-related projects approved by the Office of Homeland Security (OHS).

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

**8879.58.** (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of

eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004-05, 2005-06, and 2006-07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313 of the Public Utilities Code during the 2004-05, 2005-06, and 2006-07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004-05, 2005-06, and 2006-07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004-05, 2005-06, and 2006-07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004-05, 2005-06, and 2006-07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57. (4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3). (b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to OHS a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following: (1) A summary of the proposed project that describes the safety, security, or

emergency response benefit that the project intends to achieve. (2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727. (3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed. (c) After receiving the information required to be submitted under subdivision

(b), OHS shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, OHS shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, OHS shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from OHS required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agencies or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in order to complete the audit. The

Controller's office shall transmit copies of all completed audits to OHS and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

## 25% Waterborne

### CALIFORNIA CODES GOVERNMENT

#### CODE SECTION 8879.57

**8879.57** Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section **8879.23**, shall be allocated as follows:

(b) (1) Twenty-five percent of available funds shall be allocated for capital expenditures to regional public waterborne transit agencies authorized to operate a regional public water transit system, including the operation of water transit vessels, terminals, and feeder buses, and not otherwise eligible to receive State Transit Assistance funds as of the effective date of this article. Funds shall be allocated for eligible capital expenditures that enhance the capacity of regional public waterborne transit agencies to provide disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster or emergency.

(2) Eligible capital expenditures include, but are not limited to, the construction or acquisition of new vessels, the capital improvement or construction of docks, terminals, or other waterborne transit facilities, the purchase of related equipment, and the construction of fueling facilities. A project shall

- (A) provide capital facilities and equipment to a regional public waterborne transit system that enhances the ability of the system to respond to a regional emergency,
- (B) be included in a regional plan, including, but not limited to, a regional plan for waterborne transit expansion or disaster response preparedness, and
- (C) provide maximum flexibility in responding to disasters or emergencies.

**8879.59.** (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivision (b) of Section **8879.57**, the Office of Emergency Services (OES) shall administer a grant application and award program for those transit agencies.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section **8879.57**.

(c) Prior to allocating funds to projects pursuant to this section, OES shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OES shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OES shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to OES for its review and consideration. Project nominations shall include all of the following:

- (1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.
  - (2) Identification of all nonbond sources of funding committed to the project.
  - (3) An estimate of the project's full cost and the proposed schedule for the project's completion.
- (f) No later than February 1, OES shall select eligible projects to receive grants under this section. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section **8879.57** shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

# 15% Heavy Rail

## CALIFORNIA CODES GOVERNMENT

### CODE SECTION 8879.57

**8879.57** Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section **8879.23**, shall be allocated as follows:

(c) (1) Fifteen percent of available funds shall be made available for capital expenditures to the intercity passenger rail system described in Section 14035 and to the commuter rail systems operated by the entities specified in Section 14072 and in Section 99314.1 of the Public Utilities Code. Operators who receive funding pursuant to this subdivision shall not be eligible to receive funding pursuant to subdivision (a).

(2) Eligible capital expenditures shall include either of the following: (A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other security-related projects approved by OHS.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

**8879.60.** (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to intercity and commuter rail operators eligible to receive funds pursuant to subdivision (c) of Section **8879.57**, OHS shall administer a grant application and award program for those intercity and commuter rail operators.

(b) Funds awarded to intercity and commuter rail operators pursuant to this section shall be for eligible capital expenditures as described in subdivision (c) of Section **8879.57**.

(c) Prior to allocating funds to projects pursuant to this section, OHS shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, OHS shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, OHS shall issue a notice of funding availability no later than October 1.

(e) No later than December 1, of each fiscal year in which the notice in subdivision (d) is issued, eligible intercity and commuter rail operators may submit project nominations for funding to OHS for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, OHS shall select eligible projects to receive grants under this section. Grants awarded to intercity and commuter rail operators pursuant to subdivision (c) of Section **8879.57** shall be for eligible capital expenditures, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of that section.