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Court Rejects State Raids on Transit Funding *Appeals Panel Rules Diversions Violate Repeated Demands of Voters*

SACRAMENTO - As lawmakers race to beat the deadline for adopting a state budget for the fiscal year that begins July 1, negotiations hit a new wrinkle today when the Third District Court of Appeals in Sacramento ruled that annual raids on public transit funding are in violation of state law.

While the Court claims no authority to order repayment of funds re-routed in past budget deals, the decision means that continued diversion of voter-mandated transit funding is illegal going forward. And that means that approximately \$1 billion earmarked for the General Fund as part of current negotiations must be restored to transit.

“The ruling clearly states that the rip-offs are illegal,” said Joshua Shaw, Executive Director of the California Transit Association and lead plaintiff in the suit that was originally filed over \$1.19 billion taken from the Public Transportation Account (PTA) as part of the 2007-08 budget agreement. “It says they’ve been illegal since before 2007, and it says that the definition of mass transportation that lawmakers have adopted since then to mask these diversions is illegal.”

“This is a clear victory for the millions of Californians who depend every day on public transit to get to work, school and health care facilities.”

In the original suit filed in October, 2007, The Association argued that the funding raids violated a series of statutory and constitutional amendments enacted by voters via four statewide initiatives dating back to 1990. The suit maintained that the measures - from 1990's Proposition 116 through Proposition 1A of 2006 - established the PTA as a trust fund and require that PTA revenues must be spent on "mass transportation purposes."

The initial Superior Court decision, issued in January of 2008, ruled that the 2007-08 budget violated the law by diverting \$409 million from the PTA to reimburse the General Fund for past debt service payments on Proposition 108 bonds. The ruling declared that the shift “does not serve any transportation planning or mass transportation purpose.” At the same time, however, the Court permitted an additional \$779 million transfer from the PTA to cover home-to-school busing and other programs that public transit advocates argued did not meet the definition of “mass transportation” as expressed in Proposition 116, which voters approved with the intent of establishing the PTA as a trust

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fund to support true public transportation service.

Just two weeks after the court's ruling, the Legislature re-instated the \$409 million worth of cuts by re-configuring the law on which the court's decision was based, meaning that the entire \$1.19 billion rightfully intended for public transportation funding had been raided. The Association filed its appeal of the Superior Court decision last September.

The Appeals Court dismissed the State's claims that it is legal to divert PTA revenues before they are deposited in the PTA, and also that it is within the purview of the legislature to transfer "spillover" funds from the PTA to the Mass Transportation Fund (MTF).

"The MTF was created in 2007 by budget writers as a mechanism to perpetrate the diversion of transit funding to non-transit purposes," Shaw explained. "By shifting PTA money into the 'Mass Transportation Fund,' they sought to create a veneer of legitimacy for these diversions. The Court rejected this legerdemain."

Another key component of the court's decision was its definition of "mass transportation purposes" specified by the initiatives. The court denied the state's contention that the definition permitted the transfer of funds for home-to-school bus service, transport of disabled persons to regional centers funded by the Department of Developmental Services, repayment of Proposition 42 loans, payment of Proposition 116 bond debt service, and payment of the General Fund's obligation to fund bond debt service for non-transit general obligation bonds.

"While we agree that these are all worthy programs, they simply don't fit the public's definition of mass transportation," said Shaw. "We feel the voters intended 'mass transportation' to mean 'public transportation' or 'public transit,' and the Court agreed."

By skirting the intention of the initiatives, budget crafters enabled the diversion of more than \$5 billion of transit funding this decade – more than \$3 billion in the last two budget cycles alone. Transit funding took an additional critical blow when the budget agreement enacted in February eliminated the State Transit Assistance program. Unless the legislature now revises its 2009-10 budget to conform to the court's decision, no PTA revenues will flow to local transit agencies.

But proponents of the legal action saw the suit as being about more than just money to keep transit moving.

"Four times since 1990 – and with no less than 61 percent approval – voters have repeatedly and overwhelmingly expressed their demands for transit funding," Shaw noted "and they have been repeatedly betrayed by those responsible for crafting a state budget."

"Furthermore, this suit strikes at the heart of the gimmicks that have been employed year after year in putting together the state budget," he added. "We recognize the horrendous crunch that the budget crafters face, but this court decision is one more obvious sign that the whole budget process needs serious reform."

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For more background on the case, visit www.caltransit.org/lawsuit
For the full text of the court's decision, [click here](#).