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Suit fights transit fund shift

Advocates seek to stop reassignment of \$1.3 billion to other transportation programs

By Judy Lin - Bee Capitol Bureau

Published 12:00 am PDT Friday, September 7, 2007

Public transit advocates on Thursday sued to prevent the Schwarzenegger administration from dipping into a transportation account to help balance California's budget -- a move that threatens to knock the spending plan off track just weeks after it was enacted.

The California Transit Association filed a lawsuit in Sacramento Superior Court, seeking an injunction to stop more than \$1 billion from being shifted away from bus and light-rail operations so the state can pay for debt as well as home-to-school transportation and other programs.

The group, which represents public transit operators and suppliers, also wants to prevent the state from shifting mass transportation money to the general fund in future budgets.

"We absolutely recognize the huge complexity of any sitting governor to balance California's gigantic budget, but we think the law, as expressed by California voters, is clear: Transit should be funded," said public transit lobbyist Josh Shaw, who is the suit's named petitioner.

Advocates argue that state support for mass transit helps keep train fares low and buses running on time. But at a time when tax revenue is coming in lower than expected, the state took money from public transportation to keep other programs going.

Legislative Democrats and Republicans, as well as the governor, had agreed to shifting \$1.3 billion out of the Public Transportation Account as a major cost-saving move following a 52-day budget standoff. The administration believes the shift is legal because the money is being used for transportation-related programs and debt.

Shaw said public transit advocates aren't trying to harm other state programs but admitted that the lawsuit, if successful, would leave a hole in the \$103 billion general fund plan.

"It's not our intention to harm any programs," Shaw said.

Assemblyman Roger Niello, R-Fair Oaks, who serves as vice chairman of the Assembly Budget Committee, said many people can find flaws in the budget enacted last month. However, given that the state continues to spend more than it takes in, the assemblyman said programs such as transit had to accept concessions so other state programs wouldn't be cut.

"There's no question this is a very stressed budget," Niello said. "The transit association professes not to want to cost other programs, but if their lawsuit prevails, it will."

Shaw said the 2007-08 budget passed by the Legislature and signed by Gov. Arnold Schwarzenegger last month "illegally shifts" public transportation funds "for purposes that we believe are clearly protected in state law for mass transportation services."

State Controller John Chiang and Finance Department Director Mike Genest are listed as respondents.

The lawsuit also objects to a budget amendment that would automatically shift half of future sales tax revenue collected from diesel fuel and gasoline sales to the general fund.

No hearing date has been set.

Finance Department spokesman H.D. Palmer noted that even with the shift, transit agencies would still be getting more money in the coming year than they did in the last fiscal year.

Rail and transit agencies across the state can expect to receive \$2.26 billion for general purpose and capital funding this year, compared with \$1.46 billion in the 2006-07 fiscal year, according to the Finance Department.

"That's a huge increase when we are either slowing down, paring down or holding flat many other programs in state government," Palmer said.

In trying to balance state revenue and spending, Schwarzenegger initially suggested shifting money from the Public Transportation Account to the general fund when he released his proposed budget in January. The account, which is partly funded by the sales tax on diesel fuel and gasoline, has been flush with cash because of high gas prices.

The budget that was passed by the Democratic-led Legislature and signed by the Republican governor called for moving \$948 million to pay for transportation-related bond debt, \$129 million for transportation costs for the disabled, \$99 million to help children get to school, and \$83 million to repay transportation loans owed by the general fund.

The lawsuit alleges that most of the transfers are illegal.

According to the lawsuit, the shift violates a string of constitutional amendments approved by voters. Proposition 116, which voters passed in 1990, established the Public Transportation Account funded by motor fuel sales tax. The state was directed to use the money "only for transportation planning and mass transportation purposes," and subsequent propositions reinforced the account.

The Legislative Analyst's Office had warned that parts of the accounting move were legally unworkable.

Administration officials recently issued a memo indicating the governor would introduce a balanced budget next year. California is facing a projected \$6.1 billion operating deficit this year, but that figure may go up if the state fails to meet revenue goals.

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