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State Appeals Transit Ruling to Supreme Court ***Lower Court Ruled Funding Raids Violate Repeated Demands of Voters***

SACRAMENTO – As expected, Schwarzenegger Administration officials have filed an appeal to the California Supreme Court contesting a recent appellate court ruling that declared illegal the raids on public transit funding included in the last several state budget agreements.

Though it is unknown whether the Supreme Court will accept the case, the action at least temporarily provides cover for state budget crafters to have siphoned an additional \$1 billion from transit funding as part of the budget plan adopted last month. That brings the total diverted since the California Transit Association first filed suit in 2007 to nearly \$4 billion.

“At a time when volatile fuel prices and economic hardship are prompting more and more people to turn to public transit, transit providers are having to resort to fare increases and service cuts in order to make up for the funding the state has taken away,” said Joshua Shaw, the Association’s Executive Director and lead plaintiff in the case. “Instead of taking the lead to support this demand, the state is blowing the opportunity by continuing with the same accounting gimmicks that have only exacerbated the budget crisis.”

“Since the day the appellate court ruled in our favor, the governor’s people have been saying they would appeal the decision, so it’s no surprise to us that they finally did,” he added. “It bought them the time they needed to add another billion dollars to the take.”

In its suit originally filed over the diversion of \$1.19 billion from the Public Transportation Account (PTA) as part of the 2007-08 budget agreement, 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."

In January, 2008, the Superior Court issued what was in essence a split decision, and both sides appealed that ruling. On June 30 of this year, the Third District Court of Appeal unanimously dismissed the State’s claims that it is legal to divert PTA revenues before they are deposited in

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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), a shadow account created in 2007 by budget writers as a mechanism to perpetrate the diversion of transit funding to non-transit purposes.

The appellate court also denied the state’s contention that the definition of “mass transportation purposes” permitted the transfer of transit funds to cover 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.

The Supreme Court traditionally allows up to 60 days to declare whether it will accept a case, though that deadline is self-imposed and could theoretically be waived. In the meantime, a stay could be issued regarding the appellate court ruling, meaning the raids would be allowed to continue until the high court renders a decision.

However, if the court decides not to accept the case, the appellate court ruling would stand. In that case (or in the case of the high court ultimately ruling in transit’s favor), the state could be on the hook for the \$4 billion taken since the budget plan that prompted the original suit.

“We recognize the horrendous crunch that the budget crafters face, but the appellate court decision is one more obvious sign that the whole budget process needs serious reform,” said Shaw. He noted that, in the wake of transit’s victory at the appellate court level, numerous other interests and organizations are preparing their own lawsuits over similar budget diversions.

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For more background on the case, visit www.caltransit.org/lawsuit