

**BILL:** SB 498 (Hurtado, D-Bakersfield)  
Introduced February 21, 2019  
Amended April 1, 2019  
Amended April 22, 2019

**SUBJECT:** SB 498 would redirect project savings from the Proposition 1B Trade Corridors Improvement Fund toward a new grant program for short-line railroads.

**STATUS:** Pending in the Senate Appropriations Committee  
Passed Senate Transportation Committee 10-1

**SUMMARY AS OF April 22, 2019:**

SB 498 would redirect unallocated project savings from Proposition 1B's (2006) Trade Corridors Improvement Fund (TCIF), existing on January 1, 2020, to a new competitive grant program for Class III, or short-line, railroads. Under the bill, the California Transportation Commission (CTC) would adopt guidelines for the grant program after a public hearing to gather stakeholder input. The CTC would also select short-line railroad projects for funding in conjunction with the goals of the 2018 California State Rail Plan. The grant program could not be more than 50 percent of the project cost or more than 25 percent of total funding available in a year. For a short-line railroad to be eligible for funding, at least 30 percent of the project's funding must come from nongovernmental sources.

**EFFECTS ON ORANGE COUNTY:**

The TCIF program is currently set to expire, with allocation and award deadlines set for June and December 2019, respectively. In anticipation of the program's expiration, transportation agencies in the Southern California Association of Governments (SCAG) region, including OCTA, sent a letter to the CTC requesting an extension of the program. In the letter, the agencies noted their opposition to redirecting TCIF savings or unspent funds towards other transportation programs. Under current CTC guidelines, any TCIF savings or unspent funds are reinvested in the freight corridor by the relevant corridor agencies.

As of the writing of this staff report, OCTA had approximately \$2.8 million in TCIF unspent funds remaining, although staff expect that these funds will be allocated to another project at the CTC meeting on May 15-16, 2019. Also at this meeting, the CTC is expected to take an item that would extend the TCIF program for one year. If the TCIF program is extended, it is possible that OCTA will accrue additional TCIF savings in the coming months. The item extending the TCIF program would also make a policy change allowing agencies with TCIF savings to utilize more of the savings or unspent funds within an existing project. This policy change is consistent with the request made by OCTA and its transportation partners in the SCAG region via the letter discussed above. The extension and the policy change are being recommended by CTC staff, and both are expected to

be adopted at the May CTC meeting. Unfortunately, SB 498 would contradict this CTC action.

The rail right-of-way in Orange County is owned and operated by either public agencies or Class I railroads. While Class III railroad projects might provide some benefits for California, there is no foreseeable need to fund short-line rail projects in Orange County. As such, SB 498 would redirect unspent TCIF or savings from their intended use, to the detriment of OCTA and the other regional transportation agencies in Southern California. Specifically, the bill would redirect future TCIF savings in Orange County to projects that provide benefits largely outside the county. As such, SB 498 would be a concerning precedent that could be used to justify future efforts to take project savings from public agencies that efficiently construct transportation improvements and direct the saving to another, unintended use. Public agencies should be rewarded, not punished, for saving taxpayer money during the construction process.

An OPPOSE position on SB 498 is consistent with OCTA's 2019-2020 State Legislative Platform principle to "Oppose efforts to reduce local prerogative over regional program funds." The Alameda Corridor-East Construction Authority and SCAG also oppose SB 498.

**OCTA POSITION:**

Staff recommends: OPPOSE

AMENDED IN SENATE APRIL 22, 2019

AMENDED IN SENATE APRIL 1, 2019

**SENATE BILL**

**No. 498**

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**Introduced by Senator Hurtado**

February 21, 2019

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An act to amend Section 8879.52 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 498, as amended, Hurtado. Trade Corridors Improvement Fund: grant program: short-line railroads.

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, statewide general election, authorizes the issuance of \$19.925 billion of general obligation bonds for specified purposes, including \$2 billion to be transferred to the Trade Corridors Improvement Fund (TCIF), created by the bond act. The bond act makes the moneys in the TCIF available, upon appropriation in the annual Budget Act by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission for infrastructure improvements along federally designated Trade Corridors of National Significance or along other corridors that have a high volume of freight movement, as determined by the commission. Existing law designates the commission as the administrative agency responsible for programming funds in the TCIF and authorizes the commission to adopt guidelines for the TCIF program.

This bill would require the commission, with respect to specified funds resulting from TCIF program savings, to establish a competitive

grant program to provide grants from those funds in the 2020–21 and 2021–22 fiscal years to *the Department of Transportation and regional transportation planning agencies, or both, for short-line railroad operators, as defined, for projects such as* railroad reconstruction, maintenance, upgrade, or ~~replacement expenditures.~~ *replacement.* The bill would require the commission to adopt guidelines, in consultation with representatives from specified government and industry entities, by July 1, 2020, to be used by the commission to select grant recipients.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) This act shall be known, and may be cited  
2 as, the Short-Line Infrastructure Improvement Act of 2019.  
3 (b) The Legislature finds and declares both of the following:  
4 (1) The primary objective of this act is to promote the  
5 recommendations made in the 2018 California State Rail Plan with  
6 regard to enabling short-line railroads to meet critical volume  
7 thresholds.  
8 (2) The act seeks to accomplish this objective by providing  
9 financial assistance through grant funding for infrastructure  
10 improvements necessary to facilitate short-line railroads becoming  
11 more compatible in supporting modern rail freight traffic and with  
12 the communities and industries they serve throughout California.  
13 SEC. 2. Section 8879.52 of the Government Code is amended  
14 to read:  
15 8879.52. (a) The commission shall evaluate, consistent with  
16 the commission's Trade Corridors Improvement Fund (TCIF)  
17 Guidelines, adopted November 27, 2007, as part of the 2010 TCIF  
18 review, the total potential costs and total potential economic and  
19 noneconomic benefits of the program to California's economy,  
20 environment, and public health. The commission shall consult with  
21 the State Air Resources Board in order to use the appropriate  
22 models, techniques, and methods to develop the evaluation required  
23 by this subdivision.  
24 (b) With respect to the two billion dollars (\$2,000,000,000)  
25 appropriated from the TCIF, as described in paragraph (1) of  
26 subdivision (c) of Section 8879.23, and the five hundred million  
27 dollars (\$500,000,000) to be made available from the State



1 Highway Account, the following programming schedule shall  
2 apply:

3 (1) The Los Angeles/Inland Empire Corridor shall receive a  
4 minimum of one billion five hundred million dollars  
5 (\$1,500,000,000).

6 (2) The San Diego/International Border Corridor shall receive  
7 a minimum of two hundred fifty million dollars (\$250,000,000).

8 (3) The San Francisco Bay/Central Valley Corridor shall receive  
9 a minimum of six hundred forty million dollars (\$640,000,000).

10 (4) Other corridors, as determined by the commission, shall  
11 receive a minimum of sixty million dollars (\$60,000,000).

12 (c) The corridors referenced in subdivision (b) shall receive the  
13 minimum amount of funding programmed for that corridor  
14 notwithstanding the deprogramming of any project or projects in  
15 that corridor by the commission. If a project is or projects are  
16 deprogrammed, the commission shall collaborate with the local  
17 transportation agencies in that corridor to select another project or  
18 projects for programming of those funds within the minimum  
19 amount provided to each corridor pursuant to subdivision (b).

20 (d) If the Colton Crossing project programmed in the  
21 commission's TCIF Program as of April 10, 2008, does not meet  
22 the requirements or delivery schedule contained in its project  
23 baseline agreement when reviewed by the commission no later  
24 than March 2010, the project shall be ineligible to receive an  
25 allocation from the TCIF. The ninety-seven million dollars  
26 (\$97,000,000) associated with the project shall then be available  
27 for programming in the Los Angeles/Inland Empire Corridor. In  
28 that event, the commission shall collaborate with the local  
29 transportation agencies in that corridor to select another project or  
30 projects for programming of those funds, and, in making that  
31 selection, shall take into consideration the Los Angeles/Inland  
32 Empire Corridor Tier One or Tier Two Project Lists and any other  
33 project identified by the local agencies. Projects currently receiving  
34 TCIF funding shall not be considered for selection.

35 (e) (1) The commission shall report to the Assembly Committee  
36 on Transportation, the Senate Committee on Transportation and  
37 Housing, the Senate Committee on Budget and Fiscal Review, the  
38 Assembly Committee on Budget, the Senate Committee on  
39 Appropriations, and the Assembly Committee on Appropriations  
40 a summary of any memorandum of understanding, along with a

1 copy of the memorandum, or any agreement executed between a  
2 railroad company and any state or local transportation agency as  
3 it relates to any project funded with moneys allocated from the  
4 TCIF within 30 days of the commission's receipt of those  
5 documents.

6 (2) Commencing January 1, 2012, the commission shall provide  
7 semiannual reports to the Assembly Committee on Transportation,  
8 the Senate Committee on Transportation and Housing, the Senate  
9 Committee on Budget and Fiscal Review, the Assembly Committee  
10 on Budget, the Senate Committee on Appropriations, and the  
11 Assembly Committee on Appropriations on the status of all railroad  
12 projects programmed in the TCIF program.

13 (3) This subdivision shall become inoperative on January 1,  
14 2015, pursuant to Section 10231.5.

15 (f) (1) With respect to funds resulting from TCIF program  
16 savings that have not been allocated as of January 1, 2020, the  
17 commission shall establish a competitive grant program to provide  
18 grants in the 2020–21 and 2021–22 fiscal years from those funds  
19 to *the department or regional transportation planning agencies,*  
20 *or both, for short-line railroad operators for projects such as*  
21 *railroad reconstruction, maintenance, upgrade, or replacement*  
22 *expenditures: replacement.* The commission shall establish the  
23 grant program in accordance with all of the following:

24 (A) (i) The commission shall adopt guidelines for the grant  
25 program in consultation with the Transportation Agency, one  
26 representative from a regional transportation planning agency, and  
27 one representative from the Class III railroad industry.

28 (ii) The guidelines shall be used by the commission to select  
29 grant recipients and shall be consistent with the goals and  
30 objectives of the 2018 California State Rail Plan with regard to  
31 short-line railroad infrastructure investment.

32 (iii) The guidelines shall include performance metrics and shall  
33 require an applicant to demonstrate its ability to achieve those  
34 performance metrics in its application. The performance metrics  
35 shall include, but are not limited to, requiring an applicant to  
36 demonstrate that its project will improve the ability to move freight  
37 and will have a useful life of no less than 10 years.

38 (iv) *The guidelines shall specify that awarded grant funds shall*  
39 *not be used to support the operations of any rail system.*

40 (iv)

1 (v) The commission shall adopt the guidelines by July 1, 2020,  
2 and shall provide a 90-day public comment period before adopting  
3 the guidelines.

4 (B) The commission shall determine the amount of the grant  
5 award subject to the following requirements:

6 (i) The amount of a grant awarded shall not exceed 50 percent  
7 of the total project cost.

8 (ii) In order to be awarded a grant, ~~a short-line railroad operator~~  
9 ~~shall provide~~ at least 30 percent of the total project cost *shall be*  
10 *provided* from nongovernmental sources.

11 (iii) A grant shall not exceed 25 percent of the total funding  
12 available in a fiscal year.

13 ~~(2) For purposes of this subdivision, the following definitions~~  
14 ~~apply:~~

15 ~~(A) "Railroad~~

16 ~~(2) For purposes of this subdivision, "railroad reconstruction,~~  
17 ~~maintenance, upgrading, or replacement expenditures"~~<sup>22</sup>  
18 ~~replacement"~~ means the costs paid or incurred by the short-line  
19 ~~railroad operator~~ for reconstruction, maintenance, or replacement  
20 of railroad right-of-way infrastructure, including, but not limited  
21 to, track, roadbed, bridges, industrial leads, and track-related  
22 structures on Class III railroads as defined by the United States  
23 Surface Transportation Board as of January 1, 2020. "Railroad  
24 reconstruction, maintenance, upgrading, or replacement  
25 expenditures" *replacement*" shall also include the costs paid or  
26 ~~incurred by the short-line railroad operator~~ for new construction  
27 of industrial leads, switches, spurs and sidings, and extensions of  
28 existing sidings.

29 ~~(B) "Short-line railroad operator" means a company that owns~~  
30 ~~a railroad that is classified by the United States Surface~~  
31 ~~Transportation Board as a Class III railroad.~~