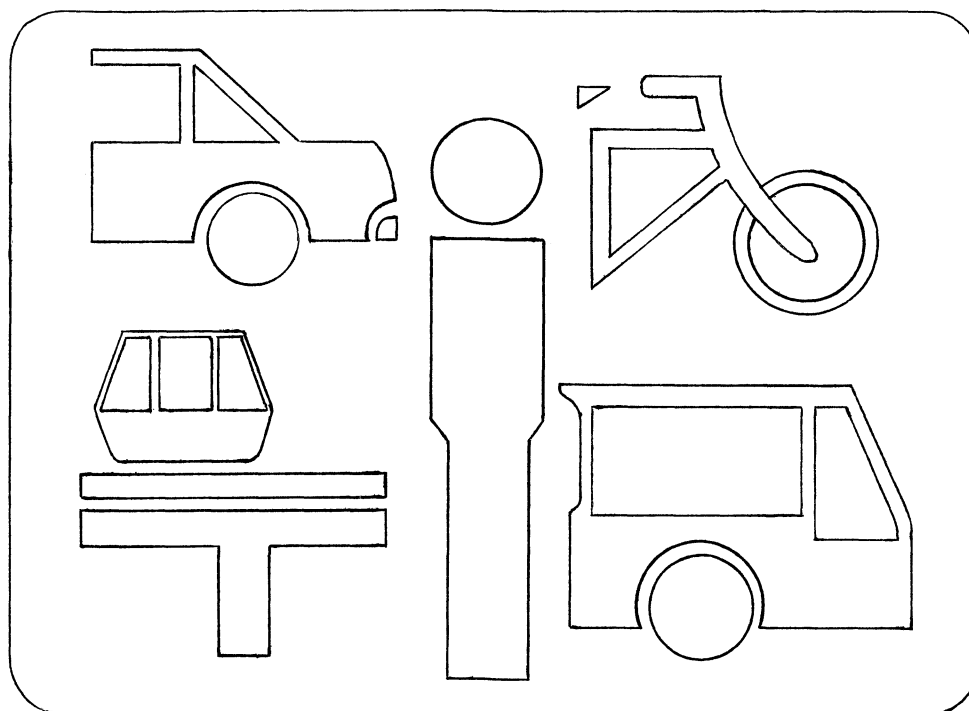




Joint Legislative Audit Committee
Office of the Auditor General



REPORT TO THE CALIFORNIA LEGISLATURE



REGIONAL TRANSPORTATION PLANNING AGENCIES' MANAGEMENT OF THE TRANSPORTATION DEVELOPMENT ACT

Office of the Auditor General

1955 - 1977



Joint Legislative Audit Committee

OFFICE OF THE AUDITOR GENERAL

California Legislature



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July 29, 1977

The Honorable Speaker of the Assembly
The Honorable President pro Tempore of the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report on the administration of the federal Transportation Development Act by the 43 regional transportation planning agencies.

The auditors are Thomas W. Hayes, Audit Manager; and Kenneth A. Mason.

Respectfully submitted,

MIKE CULLEN
Chairman

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SUMMARY

In California, 43 Regional Transportation Planning Agencies are responsible for preparing and updating transportation plans required by state and federal law. These planning agencies are also responsible for allocating sales tax funds made available by the Transportation Development Act of 1971 (TDA) and administering specified provisions of the Act. During fiscal year 1976-77 TDA revenue totalled \$219 million.

California's Regional Transportation Planning Agencies have:

- Not allocated TDA subsidies to transit operators in a manner which provides incentives for these operators to improve their efficiency and effectiveness. While it would be difficult to use specific efficiency and effectiveness measurements as the only basis for allocating TDA subsidies, using these measurements as a part of the allocation process would encourage improvements in transit operations (p. 7).

- Not always provided an accurate financial analysis of changes in service levels. Over the past several years, financial projections in many Regional Transportation Plans and Transportation Improvement Programs have been inaccurate. These inaccuracies may eventually result in a need for additional funding to meet planned levels of service or a reduction in planned service levels (p. 21).

- Not adequately controlled all expenditures of TDA funds. In several instances, TDA expenditures could not be clearly accounted for and TDA provisions were not complied with (p. 28).

Recommendations to improve the administration of the Transportation Development Act are listed on pages 19, 26 and 33.

INTRODUCTION

In response to a resolution of the Joint Legislative Audit Committee, we have reviewed selected Regional Transportation Planning Agencies' management of the Transportation Development Act. The review was conducted under the authority vested in the Auditor General by Section 10527 of the Government Code.

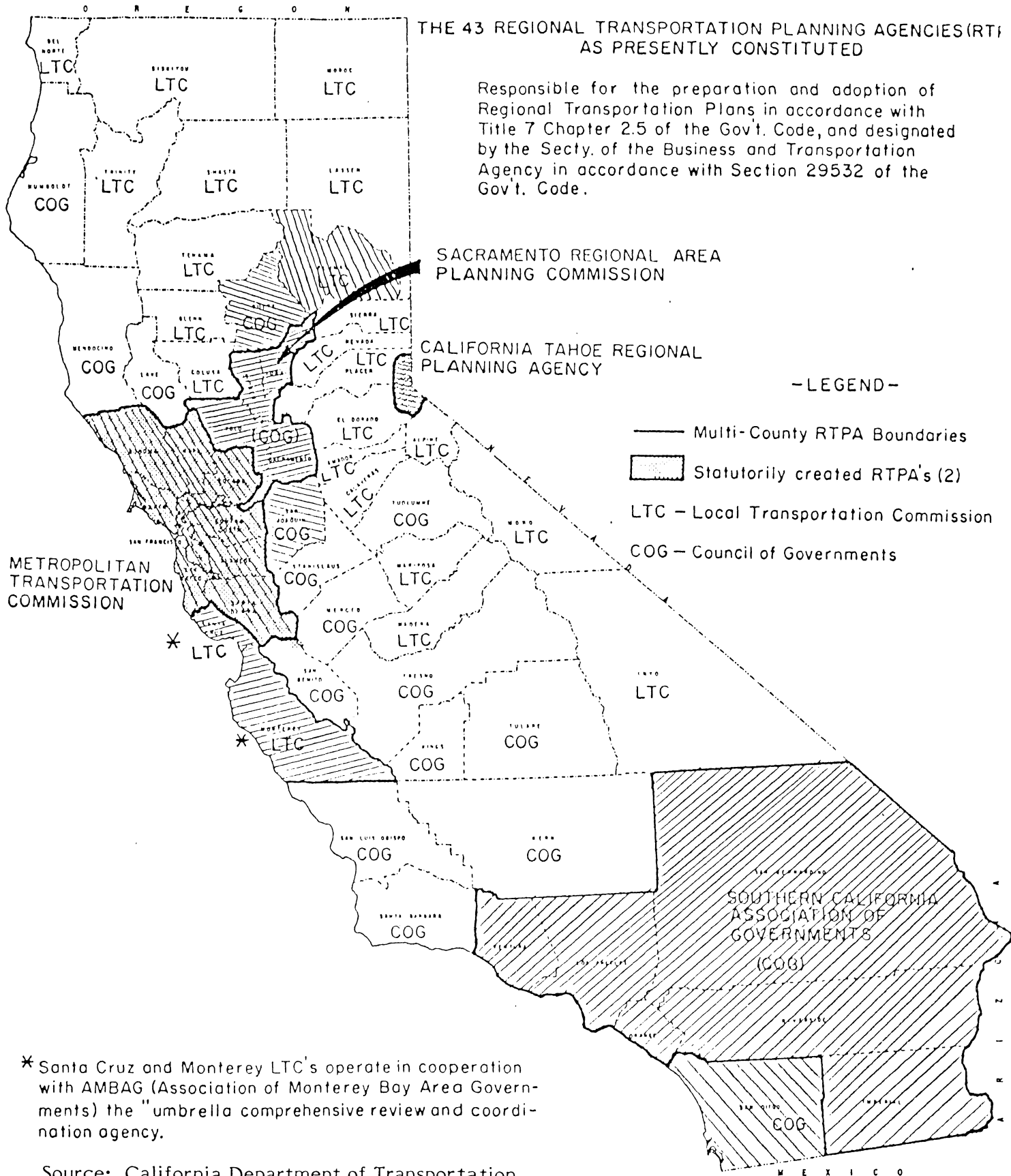
Transportation Planning in California

California's Regional Transportation Planning Agencies (RTPAs) are responsible for preparing and updating transportation plans required by state and federal law. These agencies are also responsible for allocating funds made available by the Transportation Development Act among the various eligible claimants within their regions.

RTPAs are either statutorily created regional transportation planning agencies, councils of governments or local transportation planning commissions. The Secretary of the Business and Transportation Agency, as authorized by Section 29532 of the Government Code, designates the transportation planning agency responsible for allocating Transportation Development Act funds. The designated RTPAs in California are shown in Figure I.

FIGURE I

REGIONAL TRANSPORTATION PLANNING AGENCY BOUNDARIES



Source: California Department of Transportation

RTPAs have three primary functions. The first is to prepare and update the Regional Transportation Plan required by Chapter 1253, Statutes of 1972 (AB 69). The Regional Transportation Plan is a long-range integrated, multimodal transportation plan that contains refined and updated policies, plans and programs for maintaining and improving transportation systems.

The second function, which only exists for those planning agencies receiving federal funds, is to annually prepare a Transportation Improvement Program pursuant to federal regulations. The Transportation Improvement Program includes projects drawn from the long-range elements of the Regional Transportation Plan and other plans. The projects are prioritized into a short-range, five-year program directed at improving the overall efficiency and people-moving capability of the existing transportation system while moving toward implementation of the long-range plan.

The third function is to provide specific management and administrative functions under the TDA. Division 10, Part 11, Chapter 4 of the Public Utilities Code requires RTPAs to allocate funds made available under the TDA. Also, RTPAs are responsible for implementing rules and regulations adopted by the Secretary of the Business and Transportation Agency with the advice and consent of the State Transportation Board. These rules and regulations specify procedures to evaluate and review public transportation claims and require transit operators to submit budgets or financial plans, certified financial statements and other information with their claims.

Scope of Review

There are 43 Regional Transportation Planning Agencies in the State. We selected a sample of ten for our analysis. While the sample size is not large enough to project findings to all planning agencies in the State, it is sufficient to illustrate the characteristics of planning agencies in both urban and rural areas. The agencies sampled are illustrated by the shaded portions of Figure I. They include:

Butte County Association of Governments
California Tahoe Regional Planning Agency
Comprehensive Planning Organization (San Diego)
Metropolitan Transportation Commission
Monterey County Transportation Commission
Plumas County Transportation Commission
Sacramento Regional Area Planning Commission
San Joaquin County Council of Governments
Santa Cruz County Transportation Commission
Southern California Association of Governments

In addition to the RTPAs listed above we gathered data from the Association of Monterey Bay Area Governments, Los Angeles County Transportation Commission, San Diego Metropolitan Transit Development Board and North San Diego County Transit Development Board.

We concentrated our review on:

- (1) identifying potential methods to improve the allocation of TDA funds; and
- (2) evaluating the RTPAs management of the TDA.

AUDIT RESULTS

POTENTIAL TO PROVIDE FINANCIAL
INCENTIVES FOR TRANSIT SYSTEMS
TO IMPROVE PERFORMANCE

RTPAs do not allocate TDA subsidies to transit operators in a manner which provides incentives for these operators to improve their efficiency and effectiveness. While it would be difficult to use specific efficiency and effectiveness measurements as the only basis for allocating TDA subsidies, using these measurements as part of the allocation process would encourage improvements in transit operations.

Apportionment and
Allocation of TDA Funds

California's Transportation Development Act of 1971 authorized a local transportation fund in each of California's counties to help fund local transportation needs. Revenue for these funds comes from additional taxes which the TDA made available to the counties.* Each fund is administered by the county board of supervisors, regional transportation planning agency, local council of governments or transportation commission as specified in the TDA. Figures II and III illustrate the TDA subsidies available between fiscal year 1972-73 and fiscal year 1976-77 and the uses of these subsidies. As of June 30, 1976, the California Department of Transportation reported that \$38.5 million in local transportation funds throughout the State remained unallocated.

* The Transportation Development Act allocated an additional one-quarter of one percent of the existing sales tax to California counties for specified transportation purposes.

FIGURE II
Transportation Development Act Funds
Made Available to Local Transportation Funds

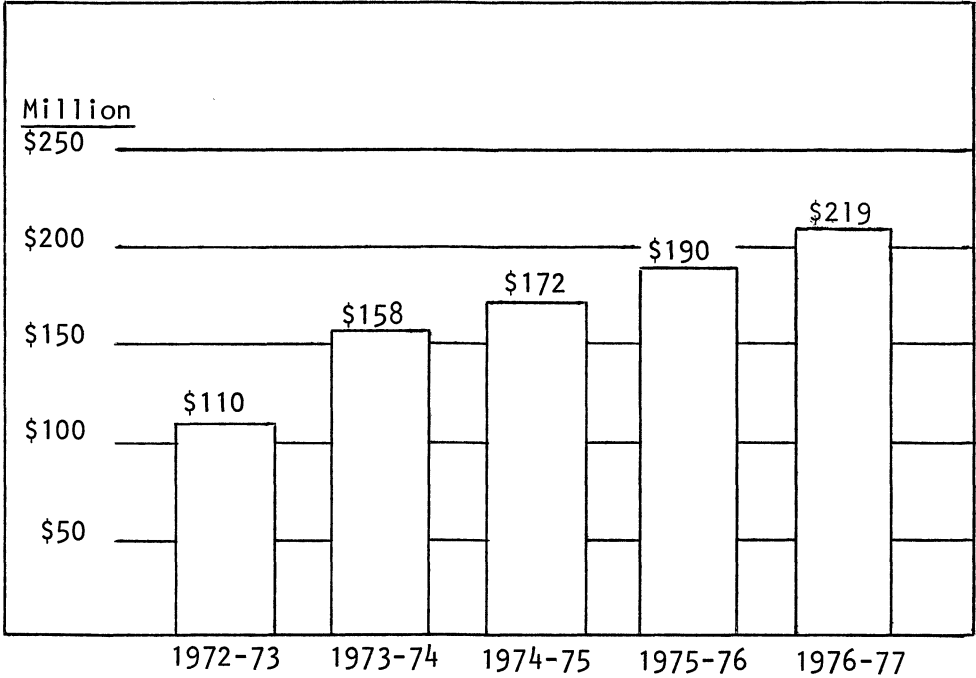
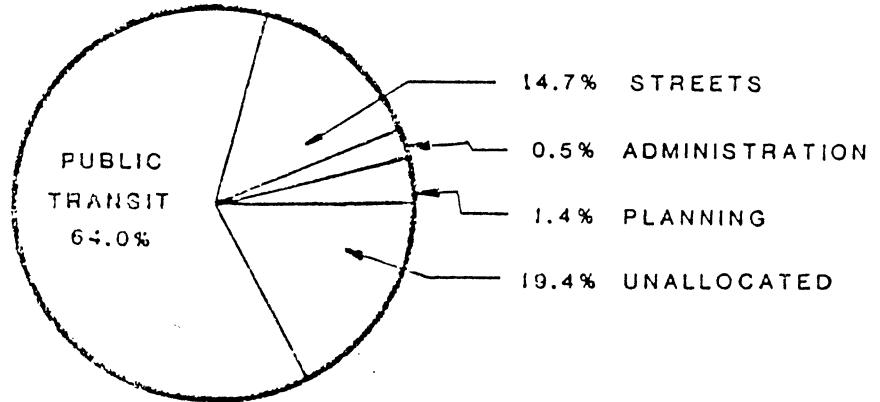


FIGURE III
**TRANSPORTATION DEVELOPMENT ACT
 ALLOCATION SUMMARY***

FY 1972/73

TOTAL AVAILABLE
 \$109.9 MIL.

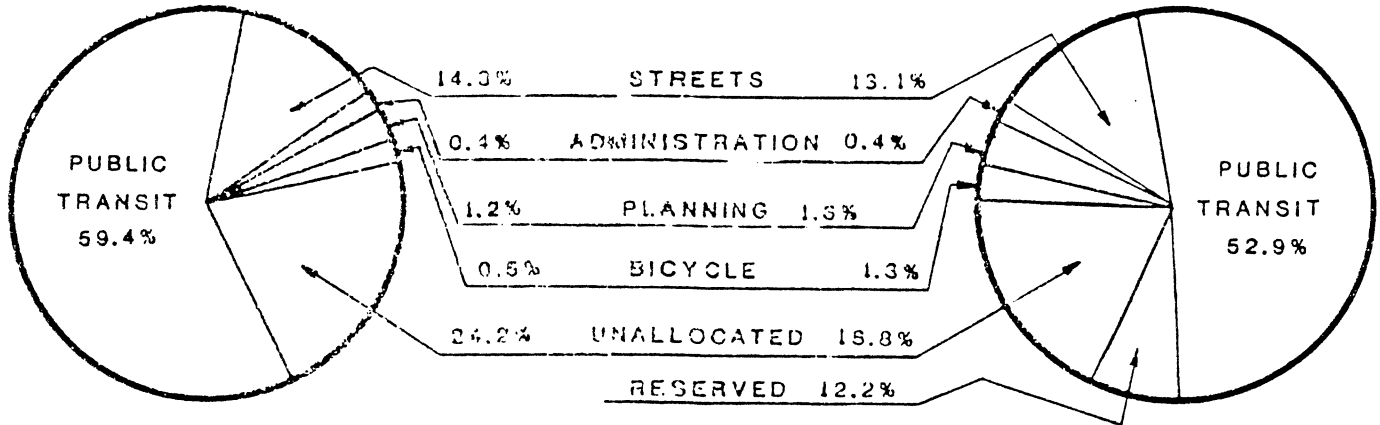


FY 1973/74

\$180.8 MIL.

FY 1974/75

\$225.7 MIL.

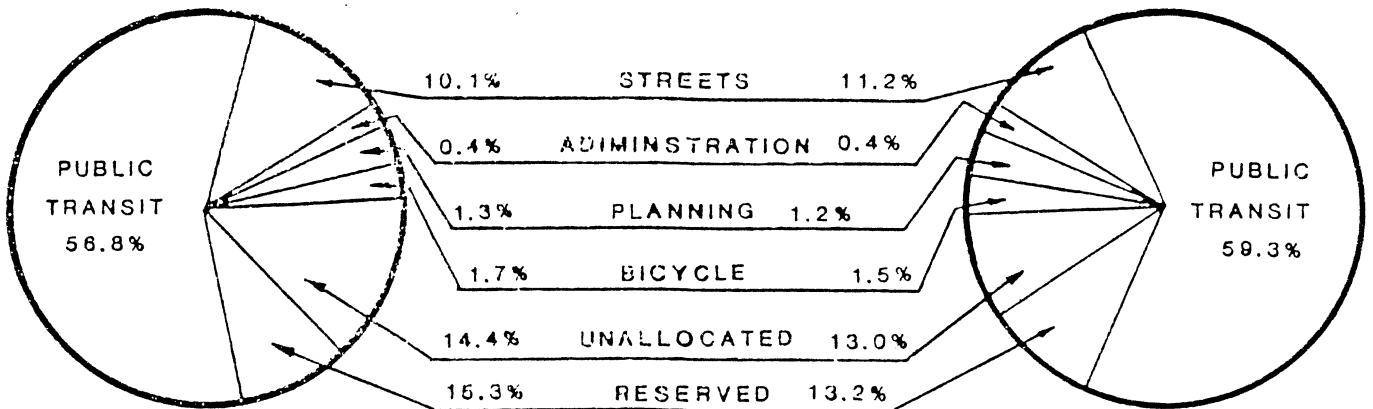


FY 1975/76

\$265.3 MIL.

**ESTIMATED
 FY 1976/77**

\$272.0 MIL.



* Includes unallocated amounts from previous years.
 SOURCE: California Department of Transportation

TDA revenue is distributed from the local transportation fund through a two-step process. First, the revenue is apportioned to city and county governments and transit operators within each county. After the revenue has been apportioned within the counties, the RTPA allocates the apportioned monies to those cities, counties and transit operators which submit annual claims for purposes set forth in the TDA.

The TDA requires that the apportionment to each entity be based entirely upon the population distribution of the county. One exception exists in Los Angeles County where transit operators other than the Southern California Rapid Transit District cannot be allocated less than 15 percent of the funds apportioned to the area within the district. The Southern California Rapid Transit District may receive up to the remaining amount.

The RTPA determines the amount to be allocated based on its assessment of the claimant's need for such funds. The RTPA is not required to allocate funds in a manner which encourages efficiency and effectiveness. In the opinion of the Legislative Counsel, however, the Legislature could require that TDA funds be allocated in a manner which encourages efficient operations (Appendix A).

RTPAs Do Not Use Efficiency
and Effectiveness Incentives
In Allocating TDA Subsidies

Since TDA funds became available in 1972, California's transit systems have rapidly expanded service. Concurrent with this service expansion has been a sharp increase in operating deficits. California's transit systems presently recover between zero percent and 57 percent of operating costs from passenger revenue. Many systems project unfunded deficits within the next five years. Legislative bodies have thus far elected to subsidize these deficits because of the community social benefits such as mobility for nondrivers, reduced traffic congestion and improved environmental conditions.

The Secretary of the Business and Transportation Agency is authorized to establish regulations which would require RTPAs to give due consideration to the efficiency and effectiveness of claimants for TDA allocations. In response to this authority, the Secretary has required the RTPAs to report annually on seven elements relating to efficiency and effectiveness prior to allocating funds to transit claimants (Appendix B).

While RTPAs are required to report annually on these efficiency and effectiveness elements, none of the ten RTPAs in our sample has formally established an allocation process based upon incentives to improve efficiency and effectiveness. In fact, only 29 of the 43 RTPAs in the State submitted the required reports for fiscal year 1975-76 to the California Department of Transportation by the required

reporting date; and 9 of the 29 reports submitted did not contain all of the required information. Further, 58 percent of the respondents to a questionnaire which we sent to all California RTPAs indicated that they have never evaluated the efficiency and effectiveness of claimants in their area.

While RTPAs use several different methods to evaluate claims for TDA funds, one example is the procedure used by San Diego's Comprehensive Planning Organization. The criteria which the Comprehensive Planning Organization uses to evaluate claims for TDA funds are expressed in a series of questions as follows.

1. Has the Regional Transportation Planning Agency (RTPA) adequately exercised its authority and responsibility?
2. Does the claim include a complete and justifiable appeal for the use of LTF monies?
3. Have the operating provisions and levels of services as indicated in the claim been met in the service year under subsidy?
4. Has the operator met specific financial, operating and reporting requirements of the Public Utilities Code?

While the answers to these questions may provide an assessment of each claimant's need for funds, they do not necessarily provide incentives to improve efficiency and effectiveness.

Usefulness of Efficiency and Effectiveness Incentives

We noted in a January 1977 report to the Legislature* that there is no system for routinely measuring the efficiency and effectiveness of California's transit systems. In that report we recommended an evaluation system for transit operations which would include measurements of the transit system's operating cost per vehicle service hour, vehicle service hours per employee, operating cost per passenger, passengers per vehicle service hour and passengers per vehicle service mile. These measures would be evaluated in conjunction with a periodic performance audit of each operator so that the impact of differences in system goals and operating characteristics could be considered.

While developing the evaluation system, we computed the above indicators for several transit systems in the State (Table 1). As the table illustrates, there are wide variations in the indicators computed both among the various systems and among the different fiscal years for the same system. These variations can be caused by variables such as labor rates, size of buses and population density of the service area. They can also be caused by varying degrees of efficiency and effectiveness.

* "Financing and Evaluating Public Transit Systems in California."

TABLE I

Performance Indicators (1)

Fiscal Year	Southern (2) California Rapid Transit District		San Diego Transit Corporation		South Coast Area Transit		Alameda-(3) Contra Costa Transit District		Sacramento(4) Regional Transit District		Merced Transit System		Gold Country Stage	
	1975/76	1974/75	1975/76	1974/75	1975/76	1974/75	1975/76	1974/75	1975/76	1974/75	1975/76	1974/75	1975/76	1974/75
Operating Revenue														
Per Vehicle Service Mile	\$.61	\$.59	\$.63	\$.64	\$.36	\$.34	\$.62	\$.61	\$.36	\$.33	\$.15	\$.13	\$.10	--
Per Vehicle Service Hour	\$ 8.68	\$ 7.13	\$ 9.03	\$ 8.95	\$ 5.24	\$ 4.90	\$ 9.09	\$ 8.88	\$ 5.16	\$ 5.28	\$ 2.70	\$ 2.30	\$ 1.73	--
Per Passenger	\$.24	\$.23	\$.27	\$.24	\$.19	\$.20	\$.31	\$.33	\$.23	\$.22	\$.23	\$.24	\$.25	--
Per Employee	\$ 7,573.00	\$ 6,110.00	\$ 8,342.00	\$ 7,788.00	\$ 7,134.00	\$ 6,504.00	\$ 8,994.00	\$ 8,703.00	\$ 4,658.00	\$ 4,883.00	\$ 2,912.00	\$ 2,380.00	\$ 3,200.00	--
Operating Cost														
Per Vehicle Service Mile	\$ 1.88	\$ 1.85	\$ 1.95	\$ 1.89	\$ 1.23	\$ 1.05	\$ 1.59	\$ 1.54	\$ 1.51	\$ 1.30	\$.97	\$.96	\$.88	--
Per Vehicle Service Hour	\$ 26.92	\$ 22.26	\$ 27.88	\$ 26.59	\$ 17.79	\$ 15.19	\$ 23.15	\$ 22.32	\$ 21.52	\$ 20.71	\$ 17.49	\$ 16.90	\$ 15.72	--
Per Passenger	\$.75	\$.71	\$.82	\$.70	\$.64	\$.62	\$.80	\$.82	\$.94	\$.84	\$ 1.49	\$ 1.74	\$ 2.30	--
Per Employee	\$ 23,482.00	\$ 19,071.00	\$ 25,740.00	\$ 23,131.00	\$ 24,234.00	\$ 20,160.00	\$ 22,896.00	\$ 21,883.00	\$ 19,438.00	\$ 19,141.00	\$ 18,898.00	\$ 17,478.00	\$ 29,044.00	--
Passengers														
Per Vehicle Service Mile	2.5	2.6	2.4	2.7	1.9	1.7	2.0	1.9	1.6	1.6	.7	.5	.4	--
Per Vehicle Service Hour	36.0	31.5	33.8	38.0	27.7	24.6	29.0	27.2	22.8	24.7	11.8	9.7	6.8	--
Per Employee	31,417	27,014	31,213	33,031	37,759	32,689	28,694	26,659	20,622	22,814	12,696	10,042	12,624	--
Vehicle Service Hours Per Employee	872.3	856.7	923.3	869.8	1,362.4	1,327.6	988.9	980.3	903.1	924.2	1,080.2	1,034.4	1,848	--
Vehicle Service Miles Per Employee	12,493	10,302	13,168	12,263	19,714	19,197	14,422	14,175	12,871	14,718	19,445	18,280	33,028	--
Average Vehicle Speed	14.3	12.0	14.3	14.1	14.5	14.5	14.6	14.5	14.3	16.0	18.0	17.7	17.9	--

Notes: (1) These indicators were computed from data supplied by the operators. Adjustments were made to make the data as comparable as possible. Refer to Appendix A for definitions of the variables used in computing the indicators.
(2) During fiscal year 1974/75 SGRD experienced a 68 day strike.
(3) During fiscal year 1974/75 A/C Transit experienced a 61 day strike.
(4) During fiscal year 1975/76 SRTD experienced a 46 day strike.

It would be impractical to establish statewide efficiency and effectiveness standards because of differences in geography and in local policies such as level of service, growth rates, types of service and service to the handicapped. However, it is possible to establish local incentives for transit systems to continually improve their efficiency and effectiveness and also recognize local goals and characteristics. If, for example, local goals were established for a transit system to improve productivity so that additional service could be provided within existing resources, a portion of the funding could be contingent upon the success of the system in increasing its vehicle service hours per employee.

The Institute of Transportation Studies at the University of California, Irvine, recently reported that "State and Federal financial assistance is currently provided to transit operators with little or no guarantee as to the effectiveness or efficiency with which it will be used." The Institute suggested consideration of the following method of distributing transit subsidies as a means of providing incentives:

One implementation of performance indicators might be a two-tier system of financial assistance. The first tier--a subsidy intended to provide support of a basic level of transit service--would provide a population-based subsidy to operators achieving a specified threshold level of accessibility (Percent Population Served). Such a threshold level would require gradual introduction to lessen its impact on assistance levels.

A second tier of the financial assistance scheme would be that of providing for incentive subsidies. These subsidies would be designed to reward improvement of performance relative either to the previous year's performance or relative to some established standard or industry average. Passenger Trips Per Population Served, Revenue Vehicle Hours Per Vehicle, Vehicle Hours Per Employee and Operating Cost Per Vehicle Hour all could be utilized in this fashion. Not only could this subsidy be a positive incentive, but it could also be designed to result in a loss of subsidy (or a portion of the subsidy) for negative changes in performance indicators.*

The evaluation system which we recommended in our January 1977 report to the Legislature, "Financing and Evaluating Public Transit Systems in California," could be used by RTPAs to identify changes in efficiency and effectiveness by using five performance indicators combined with an annual performance audit. However, RTPAs may find it appropriate to modify this measurement system to more completely consider unique local goals or operating characteristics.

If enacted, SB 759 (Mills) introduced in March 1977 would take the first statewide action in mandating that RTPAs consider efficiency when allocating TDA funds. One provision of the bill requires that RTPAs annually identify, analyze and recommend potential productivity improvements which could lower the operating costs of transit operators. If the RTPA determines that a transit operator has not made a reasonable effort to implement the recommended improvements, the allocation to that operator for the next fiscal year may not exceed its allocation for public transportation purposes for the current fiscal year.

* Gordon T. Fielding and Roy E. Glauthier, Distribution and Allocation of Transit Subsidies in California, (Irvine, California: Institute of Transportation Studies, University of California, 1976) pp. 1, 35.

Potential Conflict With
Federal Subsidy Program

In 1974 the Federal Government began providing operating subsidies to assist local transit systems based on the population of the area served. The receipt of federal operating assistance is dependent upon maintaining the level of state and local financial support specified by the following federal requirement.

...The maintenance of effort requirement is imposed to ensure that state and local support, and mass transportation non-fare box revenues will be maintained for provision of mass transportation services.

The level of effort which must be maintained during the local fiscal year for which assistance is sought is equal to the average amount of state and local government funds and nonfare box mass transportation revenues expended on the operation of mass transportation service in the two immediately preceding local fiscal years. The local fiscal years are those of the operators of mass transportation services. Failure to maintain this effort disqualifies a mass transportation operator from receiving assistance under Section 5. The following items are to be included in the maintenance of effort calculation:

- State and local government funds applied to mass transportation operating expenses.
- Mass transportation system nonfare box revenues such as advertising, concessions and property leases.
- Cost of contributed services necessary for the operation of mass transportation services which are not otherwise reimbursed.

While the maintenance of effort shall be maintained in total, nothing precludes changes within the individual amounts comprising the total maintenance of effort. The maintenance of effort sum shall not include revenues from fare collections, school bus and charter bus services revenues, state and local government funds applied to the acquisition of property and capital facilities or to the repayment of long-term debt, income not directly attributable to the provision of mass transportation services, cost of contributed property and capital facilities and amounts made available through the Federal Revenue Sharing Program...

The federal maintenance of effort provision constrains any California efforts to allocate funds for transit assistance based on performance criteria. If performance criteria were used to allocate transit funds, those transit systems which received less TDA or local assistance could lose federal operating assistance if the remaining state and local subsidies were not high enough to meet the maintenance of effort requirements.

CONCLUSIONS

California's Regional Transportation Planning Agencies have not provided financial incentives for transit systems to improve the efficiency and effectiveness of their operations. They could provide such incentives by allocating TDA subsidies in a manner that rewards efficient and effective operations. Appropriate incentives should be developed locally by each RTPA rather than statewide so that local goals and operating characteristics could be considered.

Allocating TDA subsidies in a manner which encourages improvements in efficiency and effectiveness may conflict with the federal subsidy program. Any incentive systems which are developed locally should carefully consider the impact of these incentives on the level of federal operating subsidies.

RECOMMENDATIONS

We recommend that the Secretary of the Business and Transportation Agency work with RTPAs and transit operators throughout the State to develop alternatives for allocating TDA funds which provide efficiency and effectiveness incentives. These alternatives should be flexible enough to allow consideration of local goals and operating

characteristics. The Secretary should present these alternatives along with his recommendations for legislative action in a report to the Legislature no later than July 1, 1979.

We further recommend that the Legislature urge the United States Congress to modify the federal operating subsidy program so that improved efficiency by local transit systems will not result in a reduction or elimination of federal subsidies.

BENEFIT

Providing incentives for transit systems to improve the efficiency and effectiveness of their operations should encourage transit systems to continually improve service and control costs.

SOME REGIONAL TRANSPORTATION PLANS
LACK ACCURATE FINANCIAL
PLANNING

Over the past several years, financial projections in some Regional Transportation Plans and Transportation Improvement Programs have been inaccurate. These inaccuracies may eventually result in a need for additional funding to meet planned levels of service or a reduction in planned service levels. While the high rate of inflation has compounded this situation, questionable assumptions in transit financial forecasting have contributed to this inaccurate financial planning.

Existing Planning Requirements Do Not
Require Specific Financial Information

The Federal Government requires that each urbanized area receiving federal funds develop a Transportation Improvement Program. It should be a three-to-five year program specifying those projects which require federal funds. Part of this program must be a cooperative and comprehensive transportation planning process that results in plans and programs consistent with the planned development of the urbanized area. These regulations also specify that:

The program must include estimates of costs and revenues for the five-year development period and anticipated means of financing improvements. Sources of local capital or operating subsidies for the development period should be anticipated, if they are required.

In addition to the Transportation Improvement Program, California requires that RTPAs develop and maintain a long-range Regional Transportation Plan. The Regional Transportation Plan is a guide to effective coordination and orderly programming of transportation improvements among local, regional, state and federal participants. It contains refined and updated policies, plans and programs for maintaining and improving the transportation system, generally over the next 20 years.

Chapter 1253 of the Statutes of 1972 specifies that the Regional Transportation Plan shall be partially based on studies of the financial resources available and the costs of implementing the plan. Each RTPA may develop specific assumptions for financial planning that fit the needs and purposes of its region.

The State has not established comprehensive criteria for the financial planning in the Regional Transportation Plan. The present requirements identify only the broad areas to be considered but provide no specific criteria on how the financial plans should be developed.

Some Financial Planning is Inaccurate

At least four of the ten RTPAs in our sample did not provide accurate financial information in their Transportation Improvement Programs and Regional Transportation Plans. Financial data in these plans often underestimated the cost of implementing the plan. Also, some financial plans were based on assumptions of significant new sources of revenue and changes in legislation affecting present funding sources. If these new funding sources do not become available, financial resources will be insufficient to fund some of the local Transportation Improvement Programs.

Following are examples of transportation plans which do not appear to fully consider the fiscal impact of implementation or which project major new sources of revenue which may not become available.

- The Sacramento Regional Area Planning Commission's (SRAPC) Draft Regional Transportation Plan proposes a transit system of nearly 1,000 buses for the Sacramento Regional Transit District by 1995. The present fleet size of the District is approximately 220 buses.

SRAPC has projected operating expenditures for the District between 1991 and 1995 at \$183.5 million in 1975 dollars. Comparatively, the Alameda-Contra Costa Transit District actually incurred \$46.5 million in operating expenses for the 1975 fiscal year for a fleet of 820 buses. A five-year projection at this level would be \$232.5 million, or \$49 million more than the SRAPC projection. It is improbable that Sacramento Regional Transit District will be able to operate more buses at less cost than Alameda-Contra Costa Transit. The financial supplement to the plan showed that SRAPC had assumed a constant inflation rate through 1995.

The Sacramento plan projects major funding increases, primarily through a one-half cent sales tax increase and a change in the present TDA 50 percent limitation.* Since the sales tax increase requires approval by the Legislature and the voters, and the change in the 50 percent limitation requires legislation, it is possible that these funding sources may not materialize. If either or both the sales tax increase and the change in the 50 percent requirement do not occur, Sacramento Regional Transit District will have up to \$333.9 million less funding support than the plan projected over the next 19 years.

- The California Tahoe Regional Planning Agency Regional Transportation Plan projects an expansion program which would increase the Tahoe bus fleet from 7 to 84. The plan projects that \$86 million in capital and operating funds to finance the proposed transportation expansion program would be obtained by imposing basin users fees of between \$5 and \$20. This fee, however, would require legislative approval.

* The Public Utilities Code specifies that the expenditure of the funds received under this act by a transit operator may in no year exceed 50 percent of the amount required to meet operating maintenance and capital and debt service requirements of the system after deduction of approved federal grants.

- The Southern California Association of Governments (SCAG) April 1976 Regional Transportation Plan includes a short-range, five-year, bus-system expansion plan for the region which projects \$492 million for capital expenditures and \$1.5 billion for operating costs. This plan requires an additional \$218 million beyond the cost of providing fiscal year 1976-77 service levels for the Southern California Rapid Transit District to meet operating deficits. SCAG suggested two methods of raising the additional funds for SCRTD. The first is an increase in sales tax for public transit in Los Angeles County. The second is a proposed increase in property taxes for public transit purposes. In view of the increasing public sentiment against tax increases, it is possible that neither of these alternatives would be acceptable to the public. In fact, Los Angeles County voters have twice defeated ballot initiatives which would have increased local sales taxes to provide additional transit subsidies.

SCAG's operating cost projections for service levels through 1980 also appear to be low. SCAG projected SCRTD's operating costs for the fiscal years 1975-76, 1976-77 and 1977-78 as follows:

<u>Fiscal Year</u>	<u>Projected Operating Costs</u>
1975-76	\$156 million
1976-77	191 million
1977-78	226 million

SCRTDs actual operating expenditures for the fiscal year 1975-76 were \$165 million, which is \$9 million higher than estimated by SCAG. As of May 1977, SCRTD's 1976-77 fiscal year estimate of operating expenses was \$190 million; however, this estimate includes a reduction in operating expenses due to a 36-day strike as well as major service and personnel reductions, while SCAG's estimates project service expansion. SCRTD projects its operating expenses to be about \$200 million for the 1978 fiscal year, but this will require further service reductions and a concurrent 13 percent reduction in the workforce. These service reductions were similarly caused by a shortage of funds available to support existing or expanded service levels.

In our opinion, SCAG's estimates would have been low in both the fiscal years 1976-77 and 1977-78 had SCRTD not initiated a major service reduction program which reduced the level of service below what the plan called for.

These examples illustrate that accurate financial information is not always provided for citizens and government officials to use as a basis for planning the amount and sources of funding to support transit expansion. As a result, it may be necessary to either provide additional funding to meet planned service levels or reduce planned service levels to stay within available funding. Southern California Rapid Transit District has already initiated a major service reduction program because of a funding shortfall.

CONCLUSIONS

RTPAs do not always present accurate financial plans to support their Regional Transportation Plans and Transportation Improvement Programs. No specific standards have been developed at the state level to promote accurate financial plans.

RECOMMENDATIONS

The Secretary of the Business and Transportation Agency should develop criteria for RTPAs to use in developing the financial elements of their Regional Transportation Plans. These criteria should be submitted to the State Transportation Board for approval.

If SB 759 is enacted, the Secretary should also adopt rules and regulations which specify that the required performance audit of each RTPA include a review of current transit plans to determine if they reasonably project costs and revenues required to support planned service levels.

BENEFIT

Sound financial plans would provide better data for citizens and government officials to use in planning the appropriate levels of service and the funding necessary to provide those planned service levels.

INADEQUATE CONTROL OF TDA EXPENDITURES
AND NONCOMPLIANCE WITH TDA RULES AND
REGULATIONS

RTPAs have not adequately controlled all expenditures of TDA funds. During our review, we noted several instances in which TDA expenditures could not be accounted for and TDA provisions had not been complied with. As a result, the Legislature has no assurance that the intent of the TDA is being complied with in all cases.

TDA Rules and Regulations

The Transportation Development Act requires the Secretary of the Business and Transportation Agency to adopt rules and regulations necessary to implement the Act, except for claims for local streets and roads and facilities provided for the exclusive use by pedestrians and bicycles. RTPAs are responsible for adopting rules and regulations regarding such claims. Also, RTPAs are authorized to adopt rules and regulations supplemental to and consistent with those of the Secretary further delineating procedures relating to the TDA.

Chapter 3, Title 21 of the Administrative Code defines the rules and regulations adopted by the Secretary of the Business and Transportation Agency to administer the TDA. These rules and regulations cover areas such as:

- Payments by county auditors
- Records to be maintained by county auditors
- Handling of fund interest, income and investments
- Responsibility of county auditors
- Responsibilities of RTPAs
- Records and reports required of RTPAs and transit service claimants
- Responsibilities of operators and transit service claimants
- Regulations regarding allocation of funds and allocation instructions

The Secretary has made annual changes to the rules and regulations since their adoption in order to improve the administration of the TDA. While the Secretary is required to adopt rules and regulations, the TDA provides no specific authority for any state agency to enforce the adopted rules and regulations. Some enforcement authority, however, is vested in the RTPAs in that they are required to disqualify claims submitted by claimants in violation of TDA provisions.

Some RTPAs have adopted additional rules and regulations to aid in administering the TDA. Generally, these rules and regulations have pertained to additional reporting requirements, either requiring additional data or specific reporting formats.

Administration of TDA
Could Be Improved

Each RTPA in our sample had some deficiencies in TDA administration or fund control. Some have failed to comply with TDA provisions or to require compliance by claimants in their area. The inadequate control of TDA funds has led to expenditures for unapproved purposes and loss of control of some allocated funds which had not yet

been spent. Presently, there is only limited review of RTPAs' administration of the TDA. However, if SB 759 (Mills) is adopted each RTPA will be subject to an annual performance audit by an independent entity.

There are two areas in which RTPAs have generally not complied with the provisions of the Administrative Code relating to the TDA. First, each RTPA is required to file an annual report with the Secretary of Business and Transportation to identify the apportionments in its area and the evaluation of an action on each claim filed. Many RTPAs have not filed the required annual reports in a timely manner. Because of this, the California Department of Transportation was unable to produce the TDA Annual Report for fiscal year 1975-76 until June 1977. Therefore, the Legislature did not have the report to assist it in the analysis of several bills relating to the TDA.

Second, RTPAs are responsible for ensuring that periodic performance audits are made of all transit operators receiving monies from a local transportation fund. As we noted in our January 1977 report, "Financing and Evaluating Public Transit Systems in California," no RTPA has required compliance with the performance audit provisions as required by the Administrative Code. Only two of the RTPAs in our sample have made serious efforts to comply since that time. San Diego's Comprehensive Planning Organization contracted in May 1977 for a performance audit on the four transit operators in its region. The San Francisco Bay Area's Metropolitan Transportation Commission anticipates compliance before early 1978.

In addition to the above areas of noncompliance, we found instances in which RTPAs lost control of TDA funds. The following are examples:

- Between 1972 and 1976 the City of Gardena had been allocated over \$800,000 in TDA funds to construct a bus facility. SCAG believed that the funds were being held in reserve until construction began. In 1976 SCAG discovered that the city had commingled the money with other city funds and spent it for other purposes. The city revised its TDA claims for each fiscal year between 1972-73 and 1975-76 and gained after-the-fact approval for all but \$147,777 of the expenditures. Our analysis of the situation showed that: (1) although the missing reserves had subsequently been reduced to \$147,777, a major violation of TDA provisions had occurred; (2) SCAG had been aware of TDA rule and regulation violations for at least two years prior to initiating corrective action; (3) SCAG failed to take action to stop the violation from continuing; (4) the city has not reimbursed the now separately established TDA Reserve Fund for \$147,777 which was comingled with the city's other funds in prior years.
- Fifteen of the 25 agencies in SCAG's region required to file a fiscal audit with SCAG by December 31, 1976 did not comply. Only two agencies formally requested an extension of the December 31st deadline.
- Plumas County disbursed approximately \$13,000 to the City of Portola for a road project in fiscal year 1975-76. Subsequently, Portola was unable to undertake the project and spent only \$1,300 of the disbursement. The Plumas County Transportation Commission has not requested an accounting of the disposition of the remaining funds. The Commission has no assurance that the funds are being held in reserve or that interest is being earned and accrued to the funds held.

- The City of Manteca received \$552,000 on Article 8 claims* between July 1972 and June 1977. The city reserved \$343,051 for an upcoming road project. The San Joaquin County Council of Governments could not get an accounting of the disposition of the reserved funds from the city until May 1977. The Council Director told us that he had made several efforts to do so and had received nothing. The Office of the Auditor General directly contacted the City of Manteca's Public Works Department to request the status of the TDA funds. On May 10th we received a statement of fund disposition from Manteca which showed a cash balance of \$343,051 in TDA funds. However, the statement does not show if any interest has been earned on these funds or the disposition of the interest if it has been earned.

The loss of control of TDA funds by RTPAs can be at least partially attributed to the practice of some RTPAs disbursing funds to claimants in advance of actual need. Once the funds have been disbursed to the claimant, the RTPA cannot always obtain current information on the disposition of the funds. Therefore, the RTPA has no assurance the disbursed funds are being properly utilized and are earning and accumulating acceptable interest. Further, RTPAs have no specific authority to recover funds from claimants who have spent them for unauthorized purposes.

* Division 10, Part 11, Chapter 4, Section 99400, Article 8, of the Public Utilities Code specifies that claims may be filed by cities and counties for the following purposes: (a) local streets and roads, (b) passenger rail service, (c) transportation service requiring special transportation assistance.

CONCLUSIONS

RTPAs could improve their administration of the TDA to provide better compliance with existing laws and regulations and better control of allocated funds. Some RTPAs have inadequately monitored the use of TDA funds after they have been allocated to claimants.

RTPAs could benefit from periodic performance audits which would review their compliance with applicable laws and regulations and their success in ensuring compliance by claimants in their area.

RECOMMENDATIONS

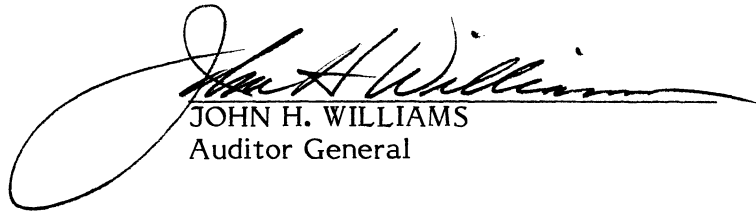
We recommend that the Legislature require periodic performance audits of RTPAs to evaluate their compliance with applicable laws and regulations and their success in ensuring compliance by claimants in their area. If SB 759 (Mills) is enacted, such performance audits will be required.

We also recommend that the Legislature specify that TDA funds allocated for Article 8 claims be retained in the local transportation funds until the approved project has started. At that time, periodic disbursements should be made concurrently with progress toward completion of the project.

BENEFIT

The first recommendation should improve control of TDA funds and ensure that they are spent only for approved purposes. The second recommendation should ensure better compliance with applicable TDA laws and regulations.

Respectfully submitted,



JOHN H. WILLIAMS
Auditor General

Date: July 27, 1977

Staff: Thomas W. Hayes, Audit Manager
Kenneth Mason

WRITTEN RESPONSES TO THE AUDITOR GENERAL'S REPORT

All Regional Transportation Planning Agencies listed on page 6 of this report were given an opportunity to comment on the report and to have their written responses included. Five of the agencies elected to respond to this opportunity. Their comments are included on the following pages.



BUSINESS AND TRANSPORTATION AGENCY

OFFICE OF THE SECRETARY

1120 N STREET, P.O. BOX 1139
SACRAMENTO, CALIFORNIA 95805 (916) 445-1331

July 22, 1977

Mr. John H. Williams, Auditor General
 Joint Legislative Audit Committee
 Office of the Auditor General
 925 L Street, Suite 750
 Sacramento, CA 95814

Dear Mr. Williams:

Thank you for the opportunity to comment on your draft report to the Joint Legislative Audit Committee dated July 1977, covering the regional transportation planning agencies' management of the Transportation Development Act.

Our review was oriented primarily toward the conclusions and recommendations of the report, in which we share your concerns. You recommend (page 19) that the Secretary of the Business and Transportation Agency work with the Regional Transportation Planning Agencies (RTPA) and transit operators on a statewide basis to develop alternatives for allocating Transportation Development Act (TDA) funds which provide efficiency and effectiveness incentives. If the recommendation is to be adopted by the Legislature, the Secretary's current budget for administration responsibilities under the Act should be augmented to undertake this complex and controversial effort. We especially have reservations regarding the recommendation on page 26 of the report which states that the Secretary of the Business and Transportation Agency should develop criteria for RTPAs to use in developing the financial elements of their Regional Transportation Plans. The statutory responsibility for specifying requirements for Regional Transportation Plan elements such as the Financial Plan is the State Transportation Boards'. The Secretary of the Business and Transportation Agency does not have authority under the Transportation Development Act to promulgate requirements for Regional Transportation Plans.

-36-

DEPARTMENTS OF THE AGENCY

Alcoholic Beverage Control	Banking	California Highway Patrol	California Housing Finance Agency	Corporations
Housing and Community Development	Insurance	Motor Vehicles	Real Estate	Savings and Loan
				Transportation

Mr. John H. Williams
July 22, 1977
Page 2

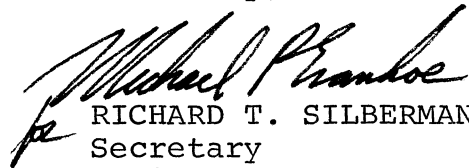
The existing State Transportation Board "Regional Transportation Planning Guidelines" (Revised December 1975) require that Regional Transportation Planning Agencies develop a "financially constrained alternative" to their adopted transportation plans. "Financially constrained" means an assumption for resources that reasonably concurs with existing State and Federal law.

However, we do not believe that either the STB or the Secretary of the Business and Transportation Agency should mandate that regional transportation planning agencies adopt a plan that can only be implemented within existing funding constraints. The planning agencies should adopt plans that reflect the needs and desires of the regions. The "Guidelines" require that the regional transportation plans shall include recommendations for any policies, ordinances, and legislation necessary for implementation of the plans.

Although we feel that the STB "Guidelines" are adequate, any additional criteria for the preparation of financial elements should be developed by the STB who has this authority.

Again, thank you for this opportunity to comment. I particularly appreciate the fact that your staff gave my staff early opportunity to comment verbally on the tentative conclusions and recommendations of the study.

Sincerely,



RICHARD T. SILBERMAN
Secretary
Business & Transportation Agency

SAN DIEGO REGION'S COUNCIL OF GOVERNMENTS



COMPREHENSIVE
PLANNING ORGANIZATION
Suite 524
Security Pacific Plaza
1200 Third Avenue
San Diego, California 92101
(714) 233-5211

July 20, 1977

Mr. John H. Williams
Auditor General
State of California
925 L Street, Suite 750
Sacramento, CA 95814

Dear Mr. Williams:

Thank you for your letter of July 12, 1977, asking for our comments on the draft report entitled Regional Transportation Planning Agencies' Management of the Transportation Development Act. The quality of the work that your staff produces is quickly establishing a substantial reputation for credibility for your office.

I am pleased that CPO is recognized for having taken the lead in the State for complying with the performance audit requirement of the TDA. We think that earlier compliance by all agencies statewide would have raised the issues you are now concerned with much sooner and avoided what may be characterized as a substantial dissipation of the TDA funds.

CPO welcomes the RTPA performance/compliance audit concept and believes it is long overdue. We have undertaken volunteer local compliance audits in order to preclude problems that you have identified in other areas. We agree with the concept of funds allocations promoting efficiency, but it must be clear that this is an area fraught with feasibility and "reverse incentive" problems.

In our judgment, CALTRANS has not taken a leadership role in the TDA administration. While we do not welcome more state control of local tax dollars, it was still possible for CALTRANS to take an "aggressive advisory role" and be the lead agency to develop the performance audit guide.

Sincerely,

RICHARD J. HUFF
Executive Director

RJH:LWS:j

MTC *Metropolitan Transportation Commission*

July 15, 1977
W.I. 1006-01-01

Mr. John H. Williams
Auditor General
California Legislature
Suite 750
925 L Street
Sacramento, CA 95814

Dear Mr. Williams:

We appreciated the opportunity to review the draft of your report, "Regional Transportation Planning Agencies' Management of the Transportation Development Act."

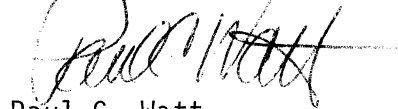
Our Commission is on record as supporting SB 759 (Mills) as it was originally drafted in March of 1977. We are particularly supportive of the concept of having performance audits conducted by other entities. The use of professional audit firms would appear appropriate for this purpose.

The amendments to Section 99244 of SB 759 pertaining to forming a committee to advise RTPAs on productivity improvements would conflict with the performance audit procedures the MTC is currently finalizing. These procedures provide for MTC and each of the operators to develop standards and measures to audit compliance with these standards on an annual basis. We would question the advisability of imposing a committee structure on top of these procedures.

It is our impression that over the past several years a number of amendments have been made to the TDA based on isolated incidents of noncompliance with a statute or a particular administrative rule or regulation of the Secretary. It would facilitate the understanding of the Act and in turn should generate a higher degree of compliance with the appropriate rules and regulations if there could be a period of stabilization of the Act as currently written.

Again, we appreciate the opportunity to comment on your report.

Very truly yours,



Paul C. Watt
Executive Director

PCW/nag/cah

Sacramento Regional Area Planning Commission



Suite 300, 800 "H" Street, Sacramento, California 95814
(Mailing Address: P.O. Box 808, Sacramento, California 95804)
(916) 441-5930

July 26, 1977

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Mr. John H. Williams
Auditor General
Joint Legislative Audit Committee
925 L Street, Suite 750
Sacramento, CA 95814

Dear Mr. Williams:

We think that your July 1977 draft report concerning Regional Transportation Planning Agencies' Management of the Transportation Development Act is incomplete. The problems we find in the report are its failure to recognize the complexity of the efficiency and effectiveness questions, the incomplete description of the functions of an RTPA (at least in our instance), and the absence of a clear critical discussion of the assumptions and methods underlying our fiscal projections.

First, the draft report is critical of the RTPAs for administering and allocating the Local Transportation Fund monies without requiring efficiency and effectiveness improvements. While some suggested measures of efficiency and effectiveness are offered, the draft also notes that there is no established procedure or set of rules which provide a clear path and responsibility for the RTPA in this regard. It also should be noted that efficiency is an economic concept dependent upon a specification of an objective and a set of constraints. Efficiency in the transportation system of which a mass transit system is a part might have a bearing on the efficiency of the mass transit system taken by itself. Constraints could take the form of effectiveness standards in both passenger service and environmental impacts. It seems to us that this is a much more complex question than the authors of your report indicate.

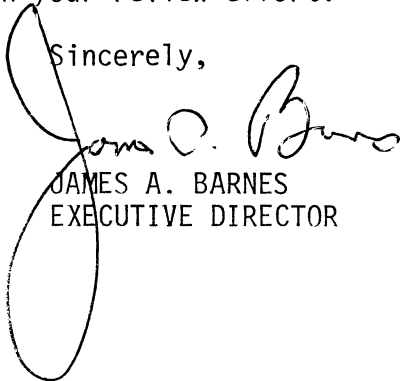
Second, we note that your discussion of the role of RTPAs is incomplete. In the case of the Sacramento Regional Area Planning Commission (SRAPC), we have the responsibility for maintaining a continuing cooperative and comprehensive planning process as set forth in Title 23, § 134 of the United States Code. In addition to the documentation you indicate, we prepare annually a

Transportation System Management Element (TSME) dealing with measures of low or no capital investment to improve the transportation system's efficiency and effectiveness. The Commission also is responsible under enabling law for the long range planning of the Sacramento Regional Transit District. As part of its comprehensive planning responsibility, the Commission maintains comprehensive data services, an environmental and land use planning function, a housing and community development planning function, a human services planning function, and administers a local federal clearinghouse review function.

The final point we would like to make relates to the discussion of our Draft Regional Transportation Plan and certain financial projections. This document represents an initial draft circulated for review and comment to our member jurisdictions, the public, and transportation service providers. This draft was then revised with the benefit of much commentary. Our Regional Transportation Plan (enclosed) was adopted in June 1977. It does not project a 1000 bus fleet by 1995. It does suggest expansion to a level supportable by an additional 1/4% sales tax between now and 1981-82. This plan also proposes such a tax as required under AB 69 planning guidelines. While you suggest that our financial projections are based upon erroneous assumptions, you only discuss the bottom line. All assumptions and projection methods used in the preparation of the RTP were available to your researchers. We did not calculate a relative cost increase for lack of a soundly based projection of such relative cost factors in the transit industry. We have discussed our assumptions with the Regional Transit District. Finally, we do not anticipate that our twenty year forecast of revenues or expenditures will be exactly realized. There is certainly some margin of error in these long range projections. You should also not lose sight of the differences between the AC transit system and the proposed Sacramento system. For example, the proposed system will operate on a highly concentrated network.

We hope these comments are useful in your review effort.

Sincerely,



JAMES A. BARNES
EXECUTIVE DIRECTOR

JAB:MH:dr

Enclosure



Governmental Center

701 Ocean Street * Santa Cruz, California 95060

(408) 425-2191

July 20, 1977

KAY BOWDEN

Planning Director

Mr. John H. Williams
Joint Legislative Audit Committee
925 "L" Street, Suite 750
Sacramento, California 95814

Subject: Regional Transportation Planning Agencies
Management of the Transportation Development Act

As one who participated in this report by providing your staff with information of the procedures employed by the Santa Cruz County Transportation Commission, I am pleased with the recommendations.

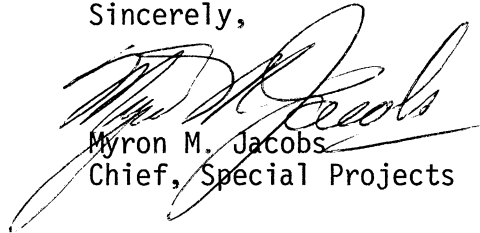
I would like to make the following comments for your consideration:

- a. Page 5 - should add a section on the Transportation Systems Management Element (TSME), the short range portion of the Regional Transportation Plan.
- b. Page 5 - the TIP also includes projects from the TSME.
- c. Page 7 - I would suggest that the first sentence be modified by adding "in general" after RTPA's.
- d. Page 10 - last sentence. Care should be exercised to insure that any guidelines adopted are not so restrictive that innovative ideas that are not immediately cost-effective are prohibited from being initiated.
- e. Page 13 - I would recommend that the evaluation system mentioned should be made part of the performance audit required by section 1664 of the Administrative Code. These could be added by a directive from the Secretary of B & T.
- f. Page 26 - next to last line, change "criteria" to "guidelines" and then spell out what is to be accomplished by these guidelines.
- g. Page 27 - top of page. Even if SB 759 does not pass, this could be made a part of the Administrative Code by action of the Secretary of B & T.

Mr. John H. Williams
July 19, 1977
Page Two

Again, let me say you have done a good job.

Sincerely,



Myron M. Jacobs
Chief, Special Projects

MMJ:jmr



600 South Commonwealth Avenue • Suite 1000 • Los Angeles • California • 90005 • 213/385-1000

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Los Angeles County
LYNN WILSON, JR.
Councilman
City of Holtville

July 21, 1977

Mr. John H. Williams
Auditor General
925 "L" Street, Suite 750
Sacramento, California 95814

Re: Draft Report on RTPA
Management of TDA

Dear Mr. Williams:

The time allowed for our review of this document did not permit an official response from the SCAG Executive Committee; however staff has reviewed the document and requests that this letter of response be included in the final report. The findings and recommendations will be discussed with the Executive Committee.

While I generally concur in the findings (pp. 1 and 2) and recommendations (pp. 19, 26, and 33) contained in the report, I am concerned that the examples cited to support these findings and recommendations present a distorted picture of SCAG's administration of the TDA. The following comments clarify the information included in the report:


- o SCAG has been involved in the development of service and efficiency standards for some time. The Executive Committee, on June 2, 1977 adopted a policy of using an allocation procedure based in part on service and efficiency standards for future Section 5 fund allocations. With regard to the TDA allocations, the law has, until this year, prescribed a vehicle/mile or population formula as the basis for allocations to operators.
- o The example cited on page 31 is without precedent in SCAG's five years of experience with the TDA, and there is no evidence to suggest that other similar situations exist. Contrary to statements on page 31, SCAG did not ignore the major violation cited -- i.e., the misapplication of TDA funds -- for two years prior to instituting corrective measures. SCAG was only aware of the fact that the City was not conforming to the requirement that transit system accounts be maintained on an enterprise fund basis. When it was discovered that funds had been misapplied, corrective action was instituted immediately.

Mr. John H. Williams
July 21, 1977
Page two

- o While we recognize that more control is needed over Article 8 expenditures, we are concerned that no additional requirements that would unnecessarily impede the implementation of needed projects be imposed on local agencies.
- o With regard to the accuracy of the RTPA financial plans and particularly the SCAG plan (p. 25) we must emphasize that in 1975 it was not our policy to forecast continued double digit escalation of transit operating costs. Unfortunately that is what has occurred in the last two years. The 8% per year compounded cost escalation factor which was used by both SCRTD and SCAG should today be considered more than adequate.

Thank you again for the opportunity to review this document.

Sincerely,


Mark Pisano
Executive Director

MP:JS:m1m

Legislative Counsel of California

OWEN K. KUNS
EDWARD K. PURCELL
RAY H. WHITAKER

KENT L. DECHAMBEAU
ERNEST H. KUNZI
STANLEY M. LOURIMORE
SHERWIN C. MACKENZIE, JR.
ANN M. MACKEY
EDWARD F. NOWAK
RUSSELL L. SPARLING
PRINCIPAL DEPUTIES

3021 STATE CAPITOL
SACRAMENTO 95814
(916) 445-3057

107 SOUTH BROADWAY
LOS ANGELES 90012

DAVID D. ALLEN
MARTIN L. ANDERSON
PAUL ANTILLA
LEFROY D. ARTHUR
CHARLES C. ASBILL
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BRIAN L. WALKUP
THOMAS D. WHELAN
JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

Sacramento, California

November 16, 1976

Honorable Mike Cullen
5144 State Capitol

Transit Operators - #16016

Dear Mr. Cullen:

You have asked the following three questions regarding Chapter 1400 of the Statutes of 1971, which are separately stated and considered below.

QUESTION NO. 1

May a state administrative agency or a transportation planning agency reduce an allocation previously made to a transit operator under the provisions enacted by Chapter 1400 of the Statutes of 1971 and subsequent amendments made thereto through January 1, 1976?¹

OPINION NO. 1

No state administrative agency may reduce an allocation previously made to a transit operator under the provisions enacted by Chapter 1400. However, under certain conditions, a transportation planning agency may reduce an allocation previously made to a transit operator under the provisions of Chapter 1400.

¹ Hereinafter referred to as "Chapter 1400."

ANALYSIS NO. 1

Under Chapter 1400, which became operative on July 1, 1972, the rate of the state's sales and use tax was reduced 1/4 percent, the sales and use taxes exemption for motor vehicle fuel (other than for such fuel used in propelling an aircraft) was deleted, and the local sales and use taxes are imposed at the rate of 1-1/4 percent, rather than 1 percent, under the Bradley-Burns Uniform Local Sales and Use Tax Law (Secs. 6051, 6201, 6357, 7202, 7203, R. & T.C.; Sec. 22, Ch. 1400, Stats. 1971).

The moneys received by a county from the 1/4 percent increase in the rate of the local sales and use taxes are to be deposited into the local transportation fund in the county treasury, and are to be continuously appropriated by the board of supervisors for various transportation purposes (Secs. 29530, 29531, Gov. C.).

After apportionments for specified administrative expenses and comprehensive regional transportation planning, the moneys in the fund are to be apportioned by the designated transportation planning agency for the county, first to cities and counties under Section 99234 of the Public Utilities Code² for facilities provided for the exclusive use by pedestrians and bicycles, but not to exceed 2 percent of the remaining money, second to qualified claimants under Article 4 (commencing with Section 99260) of Chapter 4 of Part 11 of Division 10 for public transportation purposes (i.e., the development and operation of public transportation systems)³, and then to qualified claimants under Article 8 (commencing with Section 99400) of Chapter 4, Part 11 of Division 10 for other transportation purposes (i.e., for local streets and roads, and payments to the National Railroad Passenger Corporation (AMTRAK) for passenger rail services) (Secs. 29530, 29532, Gov. C.; Secs. 99233, 99234, 99262, 99400; 21 Cal. Adm. C. 1645).

In order to qualify for apportionments for Article 4 public transportation purposes, a claimant must be an "operator," which is a city, county, transit district, or bridge and highway district operating, or under specified conditions supporting, a public transportation system (Secs.

² All subsequent section references are to the Public Utilities Code, unless otherwise indicated.

³ Hereafter referred to as "Article 4 public transportation purposes."

99207, 99208, 99209, 99210, 99213). A "public transportation system" means any system of an operator which provides transportation services to the general public by any vehicle which operates on land or water, regardless of whether operated separately from or in conjunction with other vehicles (Sec. 99211). A claim for Article 4 public transportation purposes may include claims for, among other things, planning purposes, acquisition of real property, and construction of facilities (Sec. 99262).

There are no provisions contained in Chapter 1400 which authorize any state administrative agency to reduce an allocation previously made to an operator under such provisions.

However, there are provisions under which it may be possible for a designated transportation planning agency to reduce an allocation previously made to an operator under Chapter 1400.

Section 99235 (also see 21 Cal. Adm. C. 1649) provides that a transportation planning agency shall, after having determined the allocation of each claimant, convey such information to each claimant and the county auditor together with one allocation instruction for each claimant advising the auditor as to the time and nature of payment. Section 99235 also provides that the allocation and instruction may be rescinded and revised by the transportation planning agency if (1) an appeal has been filed (see Sec. 99242), or (2) the claimant is found to be spending, or unless enjoined, to be about to spend, moneys otherwise than in accordance with the terms of the allocation, or (3) an adjustment is proved to be necessary to reconcile the estimates on which the allocation was based with the actual figures when these are available, or (4) the financial needs of the claimant differ from those at the time of the allocation due to changed circumstances.

In addition, transportation planning agencies are authorized to adopt rules and regulations governing the distribution of moneys in the local transportation fund (see Sec. 99241; 21 Cal. Adm. C. 1655). Such rules and regulations could, we think, impose reasonable conditions not in conflict with the provisions of Section 99235 under which any previously made allocation could be reduced.

Therefore, it is our opinion that although no state administrative agency may reduce an allocation previously made to a transit operator under the provisions of Chapter 1400, under certain conditions, a transportation planning agency may reduce an allocation previously made to a transit operator under the provisions of Chapter 1400.

QUESTION NO. 2

Could Chapter 1400 be amended to specifically require that a transit operator perform at an acceptable level of efficiency in order to be eligible for money in the local transportation fund?

For purposes of this question, we have assumed that the term "acceptable level of efficiency" could be adequately defined for administrative purposes.

OPINION NO. 2

Chapter 1400 could be amended to specifically require that a transit operator perform at an acceptable level of efficiency in order to be eligible for moneys in the local transportation fund.

ANALYSIS NO. 2

The legislative power of the state is vested in the Legislature (Sec. 1, Art. IV, Cal. Const.). It has all legislative power not expressly or by necessary implication denied to it by the Constitution (Dean v. Kuchel, 37 Cal. 2d 97, 104). The power to legislate includes by necessary implication the power to amend existing legislation, since the amendment of a legislative act is itself a legislative act (Johnston v. City of Claremont, 49 Cal. 2d 826, 834-835; City of Sausalito v. County of Marin, 12 Cal. App. 3d 550, 563-564). Furthermore, one legislative body cannot limit or restrict its own power or that of subsequent legislatures, and the act of one legislature does not bind its successors (In re Collie, 38 Cal. 2d 396, 398).

Accordingly, we think that Chapter 1400 could be amended to specifically require that a transit operator perform at an acceptable level of efficiency in order to be eligible for moneys in the local transportation fund.

QUESTION NO. 3

Do Sections 1660 and 1661 of Title 21 of the California Administrative Code require annual performance audits of all transit operators receiving moneys from the local transportation fund?

For purposes of this question, we have assumed that "performance audit" means an examination of the effectiveness of the management and operations of the programs or activities of transit operators independently of a financial audit.

OPINION NO. 3

Sections 1660 and 1661 of Title 21 of the California Administrative Code require annual performance audits of all transit operators receiving moneys from the local transportation fund.

ANALYSIS NO. 3

Sections 1660 and 1661 of Title 21 of the California Administrative Code read as follows:

"1660. Report to the Secretary. The transportation planning agency shall within 30 days of issuance of allocation instructions submit to the Secretary [of Business and Transportation] the estimate of monies available for allocation for each county as reported by the county auditor pursuant to Rule 1620, each area's apportionment as determined by the transportation planning agency, and a report advising him of the action taken on all claims and summarizing its evaluation of individual claims filed including specific comments on the extent to which it finds that:

"(a) The operator's services are being conducted in an efficient manner;

"(b) The operator's services are separately or in combination with other services designed to equitably and reasonably provide for the total public transportation needs of all segments of society within the general area served;

"(c) The operator's passenger fares and charges are at reasonable levels and its services, fares, transfer privileges and related matters are fully coordinated with those of all other operators and privately owned transit systems within the operator's area;

"(d) The operator is making full use of Federal and other available revenues;

"(e) There are no increases in operator's budget line items in excess of 15 percent over the preceding year or substantial increases or decreases in the overall scope of operations or capital budget provisions of the operator for major new fixed facilities which are not fully justified.

"(f) The proposed allocations are made only for transportation improvements or projects that are in conformity with Rule 1650 or Rule 1651.

"(g) Where allocations are made for implementation of elements of the Regional and California Transportation Plans other than those directly related to public transportation on claims for fiscal year 1974-1975 and thereafter, there are no areas within the jurisdiction of the claimant with unmet public transportation needs which can reasonably be met through expansion of existing transportation systems or by establishing new systems.

"Should there be any adverse comments reflecting exceptions or deficiencies in the above, the report shall fully explain the reasons for approving the claim.

"The report shall also include such portions of the operator's financial, statistical, and analytical information as the Secretary may request from time to time.

"1661. Audits of Operators. Responsibility for assuring that audits are performed on an operator rests with the transportation planning agency. Such audits should provide a means to measure performance of the operator both as to program compliance and fiscal responsibility. The transportation agency shall not allocate any further monies to an operator that has not submitted an annual audit report pursuant to Rule 1637.

"Performance audits of each operator shall provide a means to measure the performance of the operator and related management data which shall include, but not be limited to the extent to which the operator has achieved compliance with each of the evaluation criteria set forth in the subparagraphs of Rule 1660." (Emphasis added.)

Thus, Section 1661 of the California Administrative Code requires that the performance audits of each operator include at least the evaluation criteria set forth in Section 1660. Section 1660 of the California Administrative Code, in turn, requires the transportation planning agency to submit a specified report that includes specific comments on the operator with respect to those evaluation criteria. That report is to be submitted to the Secretary of the Business and Transportation Agency within 30 days after the transportation planning agency has submitted its annual allocation for the operator to the county auditor (see 21 Cal. Adm. C. 1659).

Further, we think the audits described in Sections 1660 and 1661 of the California Administrative Code constitute a performance audit in that such audits clearly consist of an examination of the effectiveness of the management and operations of transit operators independently of a financial audit.

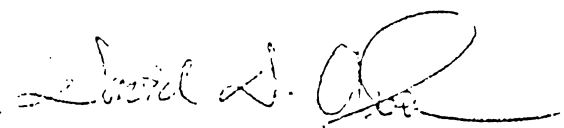
Therefore, it is our opinion that Sections 1660 and 1661 of Title 21 of the California Administrative Code

Honorable Mike Cullen - p. 8 - #16016

require annual performance audits of all transit operators receiving moneys from the local transportation fund.

Very truly yours,

Owen K. Kuns
Chief Deputy
Legislative Counsel

By 
David D. Alves
Deputy Legislative Counsel

DDA:pfh

Administrative Code, Chapter 3,
Title 21, Section 1660

1660. REPORT TO THE SECRETARY. The transportation planning agency shall within 30 days of issuance of allocation instructions submit to the Secretary the estimate of monies available for allocation for each county as reported by the county auditor pursuant to Rule 1620, each area's apportionment as determined by the transportation planning agency, and a report advising him of the action taken on all claims and summarizing its evaluation of individual claims filed including specific comments on the extent to which it finds that:

(a) The operator's or transit service claimant's services are being conducted in an efficient manner;

(b) The operator's or transit service claimant's services are separately or in combination with other services designed to equitably and reasonably provide for the total public transportation needs of all segments of society within the general area served including the transportation needs of elderly and handicapped persons;

(c) The operator's or transit service claimant's passenger fares and charges are at reasonable levels and its services, fares, transfer privileges and related matters are fully coordinated with those of all other operators and privately owned transit systems within the operator's area;

(d) The operator or transit service claimant is making full use of Federal and other available revenues;

(e) There are no increases in operator's budget line items in excess of 15 percent over the preceding year or substantial increases or decreases in the overall scope of operations or capital budget provisions of the operator for major new fixed facilities which are not fully justified.

(f) The proposed allocations are made only for transportation improvements or projects that are in conformity with Rule 1651.

(g) Where allocations are made for implementation of elements of the Regional and California Transportation Plans other than those directly related to public transportation systems and facilities provided for exclusive use of pedestrians and bicycles on claims for fiscal year 1977-1978 and thereafter, there are no areas within the jurisdiction of the claimant with unmet public transportation needs which can reasonably be met through expansion of existing transportation systems or by establishing new systems or contracting for services from common carriers, transit service claimants and others pursuant to Article 8 or Article 4.5.

Office of the Auditor General

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
Secretary of State
State Controller
State Treasurer
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
California State Department Heads
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