**ATTACHMENT ?**

**BILL:** SB 716 (Wolk, D-Davis)
Introduced February 25, 2009

**SUBJECT:** Authorizes a county, city, county transportation commission, or transit operator to file a claim for funds from the Transportation Development Act for vanpool services, including vanpool service operation and capital improvement expenditures for agricultural worker transportation to and from work

**STATUS:** Senate Transportation and Housing Committee

**SUMMARY AS OF APRIL 26, 2009:**

SB 716 would amend existing law to allow Transportation Development Act (TDA) funds to be used for vanpools including vanpools for agricultural workers when a local agency files a claim with a regional transportation planning agency (RTPA). Current law states that TDA funds shall be used for a variety of transportation programs including planning and program activities, pedestrian and bicycle facilities, community transit services, public transportation, and bus and rail projects. In rural areas funds may be used for local streets and roads if all other transit funding demands have been fulfilled. SB 716 would authorize a local agency or a participating vanpool to file a claim for TDA funds, including vanpool operation and capital improvement expenditures for agricultural workers traveling to and from work.

Vanpools for agricultural workers currently operate in several counties throughout the state including Kings, Kern, Tulare, and Fresno. Furthermore, in 2006 the Legislature approved the Agriculture Worker Transportation Worker Program (AWTP), a pilot program administered by the California Department of Transportation (Caltrans) to provide safe transportation services to agricultural workers. AWTP is currently scheduled to sunset in 2011 and is funded by a $20 million appropriation from the Public Transportation Account (PTA).

Established in 1971, the TDA is a .25 percent local sales and use tax (SUT) that serves as the dedicated revenue source for the Local Transportation Fund (LTF). The LTF provides funding for transportation planning and transit services, particularly for urban areas. RTPA's in rural areas may use TDA funds for local streets and roads projects if the region's RTPA determines all local transit funding needs have been fulfilled. Local TDA revenues serve as the "base" funding source for public transportation operations and is generated at the local level. Moreover, local TDA revenues are now the last remaining revenue source for public transportation agencies. Over the past three years, the state has experienced declines in state revenues and used PTA dollars to offset state funding obligations.

Authorizing TDA funds to fund vanpools sets an ominous precedent. If approved, the state would be provided with a stronger case to divert TDA funds to programs traditionally paid through the General Fund. As mentioned, over the past three years the state has used transportation special fund dollars to pay for programs traditionally paid for by the General Fund. Home-to-School transportation and regional center transportation were redefined to be considered "mass transportation" and as a result, qualified as an expenditure within the PTA. Debt service on previously issued transportation bonds were also shifted to be paid from "spillover" dollars (a calculation of the difference between a portion of the state sales tax on all goods and the state sales tax on gasoline) which were diverted to the newly created Mass Transportation Fund. All three of the abovementioned expenditures had previously been paid for by the General Fund. In the recently enacted 2009-2010 budget, Home-to-School and regional center transportation became a permanent PTA expenditure resulting in the five year suspension of the PTA's State Transit Assistance (STA) program in order to keep the PTA solvent. As the state continues to deal with declining revenues and ongoing deficits, this bill would set the precedent for future TDA diversions to provide additional General Fund relief.

**EFFECTS ON ORANGE COUNTY:**

The Orange County Transportation Authority (OCTA) operates a vanpool program for riders employed in Orange County. OCTA's vanpool program currently has approximately 291 participating vans in Orange County. In order to qualify for OCTA's program, interested riders must agree to a number of requirements including, entering into an agreement with either of the two major vanpool providers (VPSI or Enterprise), must obtain a five million insurance policy per van (which the two major providers supply in their agreements), 80 percent of the van must be filled upon initial agreement and ridership per van needs to be maintained at 60 percent, the van must travel to a worksite in Orange County, and the drivers must also meet strict driving criteria as required by VPSI and Enterprise.

If a vanpool meets this criteria, a vanpool can qualify for OCTA's vanpool program. Under OCTA's program, OCTA will cover $400 of the monthly costs for each participating van. Participating riders cover the remaining monthly costs. OCTA shares are currently paid through the federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) until the beginning of 2010. OCTA will then receive funding through the Federal Transit Administration (5307 funds) to sustain the program.

Under SB 716, OCTA may experience significant losses to LTF coffers. The average cost to operate an individual van is approximately $1,000 per month. OCTA provides a $400 subsidy (federal funds) per van which qualifies for the vanpool program. The remaining cost of approximately $600 is covered by the riders in each van. Assuming the current vanpool program participants and expenditures remain relatively constant, OCTA could experience a maximum $2.09 million annual loss in TDA funds (assuming 100 percent of vanpool vans file a claim). This translates into a potential monthly TDA loss of $174,600. Assuming 50 percent of current vanpool participants file a claim, OCTA would experience a $1.05 million annual loss at $87,600 per month. Lastly, assuming 25 percent of current vanpool participant file a claim, OCTA would experience a $525,600 annual loss at $43,800 per month.

Moreover, it should be noted that the abovementioned estimates only factor in vanpools which qualify under OCTA's program. SB 716 fails to specify whom may file a claim: all vanpools which operate within a county or vanpools which only qualify under a program administered by a local government agency. Staff has indicated additional vanpools operate throughout Orange County but do not meet the eligibility requirements of OCTA's vanpool program. For example, OCTA's program requires vanpools to use vans only from Enterprise and VPSI due to the companies' thorough insurance and safety requirements. If a business owns vans and is self-insured, these vans do not qualify for OCTA's program. SB 716 does not specify whether these types of vanpools are ineligible to file a claim. As a result, non-eligible vanpools may also be able to file a claim for the entire cost of the monthly vanpool expenditure which may calculate to more than $1,000. Staff is unable to determine cost impact due to the lack of data on non-eligible vanpools in Orange County. However, these additional cost to OCTA could be significant.

**OCTA POSITION:**

Staff recommends: OPPOSE