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## ***Judge orders transit funds' return***

### **Ruling could add \$409 million to deficit, but lets \$779 million shift stand.**

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Raiding \$409 million in public transportation funds to help balance California's state budget last year was illegal, a Sacramento Superior Court judge ruled this week.

But Judge Jack Sapunor sided with the state in its diversion of an additional \$779 million for programs such as home-to-school transportation.

The ruling, issued Wednesday, comes as the state is struggling with a projected budget deficit of \$14.5 billion.

H.D. Palmer, spokesman for the state Department of Finance, said the Schwarzenegger administration hopes to craft a solution that would not necessarily deepen the massive shortfall.

"We are gratified that the court has sustained the majority of our proposed use of (\$1.2 billion)," Finance Director Mike Genest said in a written statement.

"We will work with the Legislature to ensure that this decision does not result in any additional costs to the general fund in the current year or in the future," Genest said.

Sapunor's decision stemmed from a suit brought by the California Transit Association, a trade organization for agencies that operate buses, light rail and other mass transit programs.

Joshua Shaw, director of the association, said he is "very disappointed" with the ruling but that no decision has been made on whether to appeal.

"The ruling perpetuates an unfortunate trend over the last few years in which governors and legislatures have diverted dedicated public transportation funds to the detriment of citizens who rely on a healthy and robust public transit system," Shaw said.

The Sacramento lawsuit targeted a \$1.2 billion shift last year from the state's Public Transportation Account, created by a 1990 initiative and funded by motor fuel sales tax.

State officials had argued the diversion was legal because the money was to be spent on transportation-related debt and programs such as driving students to school or people with special needs to developmental centers.

Opponents countered that voters specifically intended money in the Public Transportation Account, including the disputed \$1.2 billion, to be used for buses, light rail and other forms of mass transportation – not for serving limited numbers of riders in designated programs.

Sapunor ruled that the state could not use \$409 million in mass transportation funds to reimburse the general fund for past debt service payments on Proposition 108 bonds, which expanded rail transportation. The judge's ruling says the \$409 million shift "does not serve any transportation planning or mass transportation purpose."

By ordering that \$409 million be returned to the Public Transportation Account, Sapunor apparently deepened the state's budget gap.

But Palmer said the goal is to restore the \$409 million for mass transit in a way that frees an equivalent amount for return to the general fund.

If the Legislature and Gov. Arnold Schwarzenegger can agree on such a strategy, it conceivably could neutralize any impact on the budget, he said.

Shaw called such accounting maneuvers "technical game playing." The key issue is that California simply can't afford all its priorities, he said.

"They should not shift money from one pot to another to cover expenses," he said. "They should raise revenues or cut expenses."