

Introduced by Senator Beall

February 26, 2015

An act to amend Sections 99247, 99268.2, 99268.3, 99268.4, 99268.17, and 99314.6 of the Public Utilities Code, relating to transit.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as introduced, Beall. Transit operations: financial requirements.

(1) Existing law provides various sources of funding to public transit operators. Under the Mills-Alquist-Deddeh Act, also known as the Transportation Development Act, revenues from a $\frac{1}{4}\%$ sales tax in each county are available, among other things, for allocation by the transportation planning agency to transit operators, subject to certain financial requirements for an operator to meet in order to be eligible to receive funds. Existing law sets forth alternative ways an operator may qualify for funding, including a standard under which the allocated funds do not exceed 50% of the operator's total operating costs, as specified, or the maintenance by the operator of a specified farebox ratio of fare revenues to operating costs. Existing law generally establishes the required farebox ratio as 20% in urbanized areas and 10% in nonurbanized areas, except that an operator that exceeded those percentages in the 1978–79 fiscal year is required to maintain the higher farebox ratios in order to remain eligible for funding. Existing law provides various exceptions to the definition of “operating cost” for these purposes.

This bill would delete the requirement for transit operators to maintain higher farebox requirements based on the 1978–79 fiscal year. The bill would exempt additional categories of expenditures from the definition of “operating cost” used to determine compliance with required farebox

ratios, including, among others, certain health coverage, pension, fuel, insurance, and claims settlement costs. The bill would also exempt startup costs for new transit services for up to 2 years. The bill would revise the definition of “operating cost” for performance audit and certain other purposes to exclude principal and interest payments on capital projects funded with certificates of participation or other lease financing mechanisms.

(2) Existing law also creates the State Transit Assistance program, under which certain revenues in the Public Transportation Account are allocated by formula for public transportation purposes. Under that program, funds may not be allocated to a transit operator for operating purposes unless the operator meets certain efficiency standards. Compliance with the efficiency standards is based on whether the operator’s total operating cost per revenue vehicle hour is increasing by no more than the Consumer Price Index, as specified. Existing law imposes no restrictions on allocations of funds for capital purposes. Existing law provides for funds withheld from an operator to be retained by the allocating transportation planning agency for allocation in a later year if the operator can subsequently meet the efficiency standards, and in certain cases, provides for the funds to be reallocated to other transit purposes, or to revert to the Controller.

This bill, rather than making an operator ineligible to receive State Transit Assistance program funds for operating purposes for an entire year for failing to meet the efficiency standards, would instead reduce the operator’s operating allocation by a specified percentage, based on the percentage amount that the operator failed to meet the efficiency standards, as specified. The bill would exclude certain health coverage and pension costs from the definition of operating costs used to calculate compliance with the efficiency standards. The bill would delete provisions related to funds withheld, reallocated, or reverted by the transportation planning agency.

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

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

- 1 SECTION 1. Section 99247 of the Public Utilities Code is
- 2 amended to read:
- 3 99247. For purposes of Section 99246, and as used elsewhere
- 4 in this article:

(a) “Operating cost” means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the Controller pursuant to Section 99243, ~~and exclusive of all~~. 99243. “*Operating cost*” *excludes all* subsidies for commuter rail services operated *on railroad lines* under the jurisdiction of the ~~Interstate Commerce Commission and of Federal Railroad Administration~~, all direct costs for providing charter services, ~~and exclusive of all vehicle lease costs, and principal and interest payments on capital projects funded with certificates of participation or other lease financing mechanisms.~~

(b) “Operating cost per passenger” means the operating cost divided by the total passengers.

(c) “Operating cost per vehicle service hour” means the operating cost divided by the vehicle service hours.

(d) “Passengers per vehicle service hour” means the total passengers divided by the vehicle service hours.

(e) “Passengers per vehicle service mile” means the total passengers divided by the vehicle service miles.

(f) “Total passengers” means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) “Transit vehicle” means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation services funded, in whole or in part, under this chapter.

(h) “Vehicle service hours” means the total number of hours that each transit vehicle is in revenue service, including layover time.

(i) “Vehicle service miles” means the total number of miles that each transit vehicle is in revenue service.

(j) “Vehicle service hours per employee” means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that 2,000 person-hours of work in one year constitute one employee. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public transportation system even though not employed in that agency.

SEC. 2. Section 99268.2 of the Public Utilities Code is amended to read:

99268.2. ~~(a)~~ In the case of an operator required to be in compliance with Section 99268 under Section 99268.1, the operator may be allocated additional funds that could not be allocated to it because of ~~such~~ *those* requirements, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal ~~(1) to one-fifth if serving an urbanized area or to one-tenth if serving a nonurbanized area or (2) to the ratio it had during the 1978–79 fiscal year, whichever is greater.~~ *area*.

~~(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-fifth if serving an urbanized area, or one-tenth if serving a nonurbanized area, during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for additional funds pursuant to this section.~~

SEC. 3. Section 99268.3 of the Public Utilities Code is amended to read:

99268.3. (a) In the case of an operator ~~which~~ *that* is serving an urbanized area, and ~~which~~ *that* was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or ~~which~~ *that* commenced operation after that fiscal year, the operator shall be eligible for ~~such~~ *those* funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal ~~to one-fifth or to the ratio it had during the 1978–79 fiscal year, whichever is greater.~~ *one-fifth*.

~~(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-fifth during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for funds under this article.~~

(c)

(b) In the case of an operator *that* is serving an urbanized area, and ~~which~~ *that* was in operation during the 1978–79 fiscal year even though not then eligible for funds under this article, but ~~which~~ *that* has since become eligible for ~~such~~ *those* funds, the operator shall be eligible for ~~such~~ *the* funds in any fiscal year, commencing

1 with the 1980–81 fiscal year, if it complies with either of the
2 following:

3 (1) The requirements of Section 99268.

4 (2) The requirements of ~~subdivisions~~ *subdivision* (a) ~~and (b)~~.

5 SEC. 4. Section 99268.4 of the Public Utilities Code is
6 amended to read:

7 99268.4. ~~(a)–In the case of an operator–which that is serving~~
8 ~~a nonurbanized area, and–which that was eligible for funds under~~
9 ~~this article during the 1978–79 fiscal year even though not required~~
10 ~~to be in compliance with Section 99268 or–which that commenced~~
11 ~~operation after that fiscal year, the operator shall be eligible for~~
12 ~~such those funds in any fiscal year, commencing with claims for~~
13 ~~the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio~~
14 ~~of fare revenues to operating cost, as defined by subdivision (a)~~
15 ~~of Section 99247, at least equal to one-tenth or to the ratio it had~~
16 ~~during the 1978–79 fiscal year, whichever is greater. one-tenth.~~

17 ~~(b)–In addition, such an operator having a ratio of the sum of~~
18 ~~fare revenues and local support to operating cost greater than~~
19 ~~one-tenth during the 1978–79 fiscal year shall, at least, maintain~~
20 ~~that ratio in order to be eligible for funds under this article.~~

21 SEC. 5. Section 99268.17 of the Public Utilities Code is
22 amended to read:

23 99268.17. (a) Notwithstanding subdivision (a) of Section
24 99247, *the following costs shall be excluded from the definition*
25 *of “operating cost” for the purposes of calculating any required*
26 *ratios of fare revenues to operating cost specified in this article:*

27 (1) *The additional operating costs required to provide*
28 *comparable complementary paratransit service as required by*
29 *Section 37.121 of Title 49 of the Code of Federal Regulations,*
30 *pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C.*
31 *Sec. 12101 et seq.), as identified in the operator’s paratransit plan*
32 *pursuant to Section 37.139 of Title 49 of the Code of Federal*
33 *Regulations that exceed the operator’s costs required to provide*
34 *comparable complementary paratransit service in the prior year*
35 *as adjusted by the Consumer Price Index, shall be excluded from*
36 *the definition of operating cost for the purposes of calculating any*
37 *required ratios of fare revenues to operating cost specified in this*
38 *article. Index.*

39 (2) *The additional costs of health insurance premiums, or*
40 *contributions to self-insurance programs, that exceed the*

1 operator's cost of health insurance premiums or self-insurance
2 contributions in the prior year as adjusted by the Consumer Price
3 Index.

4 (3) The additional costs of pension contributions, or related
5 defined benefit programs, that exceed the operator's cost of pension
6 contributions or defined benefit programs in the prior year as
7 adjusted by the Consumer Price Index.

8 (4) Fuel.

9 (5) Alternative fuel programs.

10 (6) Power, including electricity.

11 (7) Insurance premiums and payments in settlement of claims
12 arising out of the operator's liability.

13 (8) State or federal mandates.

14 (9) Startup costs for new services for a period of not more than
15 two years.

16 (b) The exclusion of costs from the definition of operating costs
17 in subdivision (a) applies solely for the purpose of this ~~section~~
18 ~~article~~ and does not authorize an operator to report an operating
19 cost other than as defined in subdivision (a) of Section 99247 or
20 a ratio of fare revenue to operating cost other than as that ratio is
21 described elsewhere in this article, to any of the following entities:

22 (1) The Controller pursuant to Section 99243.

23 (2) The entity conducting the fiscal audit pursuant to Section
24 99245.

25 (3) The entity conducting the performance audit pursuant to
26 Section 99246.

27 ~~(c) This section shall become operative on January 1, 2007.~~

28 SEC. 6. Section 99314.6 of the Public Utilities Code is
29 amended to read:

30 99314.6. (a) Except as provided in Section 99314.7, the
31 following eligibility standards apply:

32 (1) Except as provided in paragraph ~~(2)~~ (3), funds shall ~~not~~ be
33 allocated for operating *or capital* purposes pursuant to Sections
34 99313 and 99314 to an operator ~~unless if~~ the operator meets either
35 of the following efficiency standards:

36 (A) The operator shall receive its entire allocation, and any or
37 all of this allocation may be used for operating purposes, if the
38 operator's total operating cost per revenue vehicle hour in the latest
39 year for which audited data are available does not exceed the sum
40 of the preceding year's total operating cost per revenue vehicle

1 hour and an amount equal to the product of the percentage change
2 in the Consumer Price Index for the same period multiplied by the
3 preceding year's total operating cost per revenue vehicle hour.

4 (B) *The operator shall receive its entire allocation, and any or*
5 *all of this allocation may be used for operating purposes, if the*
6 *operator's average total operating cost per revenue vehicle hour*
7 *in the latest three years for which audited data are available does*
8 *not exceed the sum of the average of the total operating cost per*
9 *revenue vehicle hour in the three years preceding the latest year*
10 *for which audited data are available and an amount equal to the*
11 *product of the average percentage change in the Consumer Price*
12 *Index for the same period multiplied by the average total operating*
13 *cost per revenue vehicle hour in the same three years.*

14 (2) *If an operator does not meet either efficiency standard under*
15 *paragraph (1), the operator shall receive its entire allocation and*
16 *the funds shall be allocated pursuant to this paragraph. The portion*
17 *of the allocation that the operator may use for operations shall be*
18 *the total allocation to the operator reduced by the lowest*
19 *percentage by which the operator's total operating cost per*
20 *revenue vehicle hour for the applicable year or three-year period*
21 *calculated pursuant to subparagraph (A) or (B) of paragraph (1)*
22 *exceeded the target amount necessary to meet the applicable*
23 *efficiency standard. The remaining portion of the operator's*
24 *allocation may be used only for capital purposes.*

25 ~~(2)~~

26 (3) The transportation planning agency, county transportation
27 commission, or the San Diego Metropolitan Transit Development
28 Board, as the case may be, shall adjust the calculation of operating
29 costs and revenue vehicle hours pursuant to paragraph (1) to
30 account for either or both of the following factors:

31 (A) Exclusion of ~~costs~~ *cost* increases beyond the change in the
32 Consumer Price Index for fuel; alternative fuel programs; power,
33 including electricity; insurance premiums and payments in
34 settlement of claims arising out of the operator's liability; *health*
35 *insurance premiums or contributions to self-insurance programs;*
36 *pension contributions or related defined benefit programs;* or state
37 or federal mandates, including the additional operating costs
38 required to provide comparable complementary paratransit service
39 as required by Section 37.121 of Title 49 of the Code of Federal
40 Regulations, pursuant to the Americans with Disabilities Act of

1 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's
2 paratransit plan pursuant to Section 37.139 of Title 49 of the Code
3 of Federal Regulations.

4 (B) Exclusion of startup costs for new services for a period of
5 not more than two years.

6 ~~(3) Funds withheld from allocation to an operator pursuant to~~
7 ~~paragraph (1) shall be retained by the transportation planning~~
8 ~~agency, county transportation commission, or the San Diego~~
9 ~~Metropolitan Transit Development Board, as the case may be, for~~
10 ~~reallocation to that operator for two years following the year of~~
11 ~~ineligibility. In a year in which an operator's funds are allocated~~
12 ~~pursuant to paragraph (1), funds withheld from allocation during~~
13 ~~a preceding year shall also be allocated. Funds not allocated before~~
14 ~~the commencement of the third year following the year of~~
15 ~~ineligibility shall be reallocated to cost effective high priority~~
16 ~~regional transit activities, as determined by the transportation~~
17 ~~planning agency, county transportation commission, or the San~~
18 ~~Diego Metropolitan Transit Development Board, as the case may~~
19 ~~be. If that agency or commission, or the board, determines that no~~
20 ~~cost effective high priority regional transit activity exists, the~~
21 ~~unallocated funds shall revert to the Controller for reallocation.~~

22 (b) As used in this section, the following terms have the
23 following meanings:

24 (1) "Operating cost" means the total operating cost as reported
25 by the operator under the Uniform System of Accounts and
26 Records, pursuant to Section 99243 and subdivision (a) of Section
27 99247.

28 (2) "Revenue vehicle hours" has the same meaning as "vehicle
29 service hours," as defined in subdivision (h) of Section 99247.

30 (3) "Consumer Price Index," as applied to an operator, is the
31 regional Consumer Price Index for that operator's region, as
32 published by the United States Bureau of Labor Statistics. If a
33 regional index is not published, the index for the State of California
34 applies.

35 (4) "New service" has the same meaning as "extension of public
36 transportation services" as defined in Section 99268.8.

37 (c) The restrictions in this section do not apply to allocations
38 made for capital purposes.

39 (d) The exclusion of ~~costs~~ *cost* increases described in paragraph
40 ~~(2)~~ (3) of subdivision (a) applies solely for the purpose of

1 calculating an operator's eligibility to claim funds pursuant to this
2 section and does not authorize an operator to report an operating
3 cost per revenue vehicle hour other than as described in this section
4 and in Section 99247, to any of the following entities:

5 (1) The Controller pursuant to Section 99243.

6 (2) The entity conducting the fiscal audit pursuant to Section
7 99245.

8 (3) The entity conducting the performance audit pursuant to
9 Section 99246.

10 ~~(e) The restrictions in this section shall not apply to the~~
11 ~~allocation of funds made pursuant to Sections 99313 and 99314~~
12 ~~after January 1, 2010, and through the 2014-15 fiscal year.~~