

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL

No. 508

Introduced by Senator Beall

February 26, 2015

An act to amend Sections 99233.3, 99234, 99247, 99268.2, 99268.3, 99268.4, 99268.17, 99268.19, and 99314.6 of the Public Utilities Code, relating to ~~transit~~: *transportation*.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as amended, Beall. ~~Transit operations: financial requirements.~~
Transportation funds: transit operators: pedestrian safety.

(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 ¼% 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 authorizes an operator to satisfy the applicable ratio of fare revenues to operating costs by supplementing its fare revenues with local funds, as defined.* 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 local funds.* 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; participation.~~

(2) *The Mills-Alquist-Deddeh Act, also known as the Transportation Development Act, also generally requires the allocation of 2% of available funds to cities and counties for facilities for bicycles and pedestrians. Existing law provides that a city or county may expend up to 5% of its bicycle and pedestrian allocation to supplement moneys from other sources to fund bicycle safety education programs, as long as this amount is not used to fully fund the salary of any one person.*

This bill would also authorize the funding of pedestrian safety education programs from the 5% amount.

(2)

(3) 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 99233.3 of the Public Utilities Code is*
 2 *amended to read:*

3 99233.3. Two percent of the remaining money in the fund shall
 4 be made available to counties and cities for facilities provided for
 5 the exclusive use of pedestrians and bicycles unless the
 6 transportation planning agency finds that the money could be used
 7 to better advantage for the purposes stated in Article 4
 8 (commencing with Section 99260) and Article 4.5 (commencing
 9 with Section 99275), or for local street and road purposes in those
 10 areas where the money may be expended for ~~such~~ *those* purposes,
 11 in the development of a balanced transportation system. Of the
 12 amount made available to a city or county pursuant to this section,
 13 5 percent thereof may be expended to supplement moneys from
 14 other sources to fund bicycle *and pedestrian* safety education
 15 programs, but shall not be used to fully fund the salary of any one
 16 person.

17 *SEC. 2. Section 99234 of the Public Utilities Code is amended*
 18 *to read:*

19 99234. (a) Claims for facilities provided for the exclusive use
 20 of pedestrians and bicycles or for bicycle *and pedestrian* safety
 21 education programs shall be filed according to the rules and
 22 regulations adopted by the transportation planning agency.

23 (b) The money shall be allocated for the construction, including
 24 related engineering expenses, of those facilities pursuant to
 25 procedures or criteria established by the transportation planning
 26 agency for the area within its jurisdiction, or for bicycle *and*
 27 *pedestrian* safety education programs.

1 (c) The money may be allocated for the maintenance of bicycling
2 trails that are closed to motorized traffic pursuant to procedures
3 or criteria established by the transportation planning agency for
4 the area within its jurisdiction.

5 (d) The money may be allocated without respect to Section
6 99231 and shall not be included in determining the apportionments
7 to a city or county for purposes of Sections 99233.7 to 99233.9,
8 inclusive.

9 (e) Facilities provided for the use of bicycles may include
10 projects that serve the needs of commuting bicyclists, including,
11 but not limited to, new trails serving major transportation corridors,
12 secure bicycle parking at employment centers, park and ride lots,
13 and transit terminals where other funds are unavailable.

14 (f) Notwithstanding any other provision of this section, a
15 planning agency established in Title 7.1 (commencing with Section
16 66500) of the Government Code may allocate the money to the
17 Association of Bay Area Governments for activities required by
18 Chapter 11 (commencing with Section 5850) of Division 5 of the
19 Public Resources Code.

20 (g) Notwithstanding any other provision of this section, the
21 transportation planning agencies that allocate funds, pursuant to
22 this section, to the cities and counties with jurisdiction or a sphere
23 of influence within the delta, as defined in Section 5852 of the
24 Public Resources Code, may allocate the money to the Delta
25 Protection Commission for activities required by Chapter 12
26 (commencing with Section 5852) of Division 5 of the Public
27 Resources Code.

28 (h) Within 30 days after receiving a request for a review from
29 any city or county, the transportation planning agency shall review
30 its allocations made pursuant to Section 99233.3.

31 (i) In addition to the purposes authorized in this section, a
32 portion of the amount available to a city or county pursuant to
33 Section 99233.3 may be allocated to develop a comprehensive
34 bicycle and pedestrian facilities plan, with an emphasis on bicycle
35 projects intended to accommodate bicycle commuters rather than
36 recreational bicycle users. An allocation under this subdivision
37 may not be made more than once every five years.

38 (j) Up to 20 percent of the amount available each year to a city
39 or county pursuant to Section 99233.3 may be allocated to restripe
40 class II bicycle lanes.

1 SECTION 1.

2 SEC. 3. Section 99247 of the Public Utilities Code is amended
3 to read:

4 99247. For purposes of Section 99246, and as used elsewhere
5 in this article:

6 (a) “Operating cost” means all costs in the operating expense
7 object classes exclusive of the costs in the depreciation and
8 amortization expense object class of the uniform system of
9 accounts and records adopted by the Controller pursuant to Section
10 99243. “Operating cost” excludes all subsidies for commuter rail
11 services operated on railroad lines under the jurisdiction of the
12 Federal Railroad Administration, all direct costs for providing
13 charter services, all vehicle lease costs, and principal and interest
14 payments on capital projects funded with certificates of
15 ~~participation or other lease financing mechanisms.~~ *participation.*

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

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

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

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

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

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

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

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

36 (j) “Vehicle service hours per employee” means the vehicle
37 service hours divided by the number of employees employed in
38 connection with the public transportation system, based on the
39 assumption that 2,000 person-hours of work in one year constitute
40 one employee. The count of employees shall also include those

1 individuals employed by the operator which provide services to
2 the agency of the operator responsible for the operation of the
3 public transportation system even though not employed in that
4 agency.

5 ~~SEC. 2.~~

6 *SEC. 4.* Section 99268.2 of the Public Utilities Code is amended
7 to read:

8 99268.2. In the case of an operator required to be in compliance
9 with Section 99268 under Section 99268.1, the operator may be
10 allocated additional funds that could not be allocated to it because
11 of those requirements, if it maintains, for the fiscal year, a ratio of
12 fare revenues to operating cost, as defined by subdivision (a) of
13 Section 99247, at least equal to one-fifth if serving an urbanized
14 area or to one-tenth if serving a nonurbanized area.

15 ~~SEC. 3.~~

16 *SEC. 5.* Section 99268.3 of the Public Utilities Code is amended
17 to read:

18 99268.3. (a) In the case of an operator that is serving an
19 urbanized area, and that was eligible for funds under this article
20 during the 1978–79 fiscal year even though not required to be in
21 compliance with Section 99268 or that commenced operation after
22 that fiscal year, the operator shall be eligible for those funds in
23 any fiscal year, commencing with claims for the 1980–81 fiscal
24 year, if it maintains, for the fiscal year, a ratio of fare revenues to
25 operating cost, as defined by subdivision (a) of Section 99247, at
26 least equal to one-fifth.

27 (b) In the case of an operator that is serving an urbanized area,
28 and that was in operation during the 1978–79 fiscal year even
29 though not then eligible for funds under this article, but that has
30 since become eligible for those funds, the operator shall be eligible
31 for the funds in any fiscal year, commencing with the 1980–81
32 fiscal year, if it complies with either of the following:

33 (1) The requirements of Section 99268.

34 (2) The requirements of subdivision (a).

35 ~~SEC. 4.~~

36 *SEC. 6.* Section 99268.4 of the Public Utilities Code is amended
37 to read:

38 99268.4. In the case of an operator that is serving a
39 nonurbanized area, and that was eligible for funds under this article
40 during the 1978–79 fiscal year even though not required to be in

1 compliance with Section 99268 or that commenced operation after
 2 that fiscal year, the operator shall be eligible for those funds in
 3 any fiscal year, commencing with claims for the 1980–81 fiscal
 4 year, if it maintains, for the fiscal year, a ratio of fare revenues to
 5 operating cost, as defined by subdivision (a) of Section 99247, at
 6 least equal to one-tenth.

7 ~~SEC. 5.~~

8 *SEC. 7.* Section 99268.17 of the Public Utilities Code is
 9 amended to read:

10 99268.17. (a) Notwithstanding subdivision (a) of Section
 11 99247, the following costs shall be excluded from the definition
 12 of “operating cost” for the purposes of calculating any required
 13 ratios of fare revenues to operating cost specified in this article:

14 (1) The additional operating costs required to provide
 15 comparable complementary paratransit service as required by
 16 Section 37.121 of Title 49 of the Code of Federal Regulations,
 17 pursuant to the *federal* Americans with Disabilities Act of 1990
 18 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator’s
 19 paratransit plan pursuant to Section 37.139 of Title 49 of the Code
 20 of Federal Regulations that exceed the operator’s costs required
 21 to provide comparable complementary paratransit service in the
 22 prior year as adjusted by the Consumer Price Index.

23 ~~(2) The additional costs of health insurance premiums, or~~
 24 ~~contributions to self-insurance programs, that exceed the operator’s~~
 25 ~~cost of health insurance premiums or self-insurance contributions~~
 26 ~~in the prior year as adjusted by the Consumer Price Index.~~

27 ~~(3) The additional costs of pension contributions, or related~~
 28 ~~defined benefit programs, that exceed the operator’s cost of pension~~
 29 ~~contributions or defined benefit programs in the prior year as~~
 30 ~~adjusted by the Consumer Price Index.~~

31 ~~(4)~~

32 (2) Fuel.

33 ~~(5)~~

34 (3) Alternative fuel programs.

35 ~~(6)~~

36 (4) Power, including electricity.

37 ~~(7)~~

38 (5) Insurance premiums and payments in settlement of claims
 39 arising out of the operator’s liability.

40 ~~(8)~~

1 (6) State or federal mandates.

2 ~~(9)~~

3 (7) Startup costs for new services for a period of not more than
4 two years.

5 (b) The exclusion of costs from the definition of operating costs
6 in subdivision (a) applies solely for the purpose of this article and
7 does not authorize an operator to report an operating cost other
8 than as defined in subdivision (a) of Section 99247 or a ratio of
9 fare revenue to operating cost other than as that ratio is described
10 elsewhere in this article, to any of the following entities:

11 (1) The Controller pursuant to Section 99243.

12 (2) The entity conducting the fiscal audit pursuant to Section
13 99245.

14 (3) The entity conducting the performance audit pursuant to
15 Section 99246.

16 *SEC. 8. Section 99268.19 of the Public Utilities Code is*
17 *amended to read:*

18 99268.19. If fare revenues are insufficient to meet the
19 applicable ratio of fare revenues to operating cost required by this
20 article, an operator may satisfy that requirement by supplementing
21 its fare revenues with local funds. ~~Local As used in this section,~~
22 ~~“local funds” means revenues derived from taxes imposed by the~~
23 ~~operator or by a county transportation commission created pursuant~~
24 ~~to Division 12 (commencing with Section 130000) of the Public~~
25 ~~Utilities Code; any nonfederal or nonstate grant funds or other~~
26 ~~revenues generated by, earned by, or distributed to an operator.~~

27 ~~SEC. 6.~~

28 *SEC. 9. Section 99314.6 of the Public Utilities Code is amended*
29 *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 (3), funds shall be allocated
33 for operating or capital purposes pursuant to Sections 99313 and
34 99314 to an operator if the operator meets either of the following
35 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 percentage
19 by which the operator's total operating cost per revenue vehicle
20 hour for the applicable year or three-year period calculated pursuant
21 to subparagraph (A) or (B) of paragraph (1) exceeded the target
22 amount necessary to meet the applicable efficiency standard. The
23 remaining portion of the operator's allocation ~~may~~ shall be used
24 only for capital purposes.

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

30 (A) Exclusion of cost increases beyond the change in the
31 Consumer Price Index for fuel; alternative fuel programs; power,
32 including electricity; insurance premiums and payments in
33 settlement of claims arising out of the operator's liability; ~~health~~
34 ~~insurance premiums or contributions to self-insurance programs;~~
35 ~~pension contributions or related defined benefit programs;~~ or state
36 or federal mandates, including the additional operating costs
37 required to provide comparable complementary paratransit service
38 as required by Section 37.121 of Title 49 of the Code of Federal
39 Regulations, pursuant to the *federal* Americans with Disabilities
40 Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the

1 operator’s paratransit plan pursuant to Section 37.139 of Title 49
2 of the Code of Federal Regulations.

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

5 (b) As used in this section, the following terms have the
6 following meanings:

7 (1) “Operating cost” means the total operating cost as reported
8 by the operator under the Uniform System of Accounts and
9 Records, pursuant to Section 99243 and subdivision (a) of Section
10 99247.

11 (2) “Revenue vehicle hours” has the same meaning as “vehicle
12 service hours,” as defined in subdivision (h) of Section 99247.

13 (3) “Consumer Price Index,” as applied to an operator, is the
14 regional Consumer Price Index for that operator’s region, as
15 published by the United States Bureau of Labor Statistics. If a
16 regional index is not published, the index for the State of California
17 applies.

18 (4) “New service” has the same meaning as “extension of public
19 transportation services” as defined in Section 99268.8.

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

22 (d) The exclusion of cost increases described in paragraph (3)
23 of subdivision (a) applies solely for the purpose of calculating an
24 operator’s eligibility to claim funds pursuant to this section and
25 does not authorize an operator to report an operating cost per
26 revenue vehicle hour other than as described in this section and in
27 Section 99247, to any of the following entities:

- 28 (1) The Controller pursuant to Section 99243.
- 29 (2) The entity conducting the fiscal audit pursuant to Section
30 99245.
- 31 (3) The entity conducting the performance audit pursuant to
32 Section 99246.