

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE APRIL 27, 2015

**SENATE BILL**

**No. 508**

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**Introduced by Senator Beall**

February 26, 2015

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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 transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as amended, Beall. 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  $\frac{1}{4}$ % 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 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 fuel, insurance, and claims settlement costs *cost increases beyond the change in the Consumer Price Index*. 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.

(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.

(3) Existing law 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 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 those purposes, in  
11 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.

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

1 (d) The money may be allocated without respect to Section  
2 99231 and shall not be included in determining the apportionments  
3 to a city or county for purposes of Sections 99233.7 to 99233.9,  
4 inclusive.

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

10 (f) Notwithstanding any other provision of this section, a  
11 planning agency established in Title 7.1 (commencing with Section  
12 66500) of the Government Code may allocate the money to the  
13 Association of Bay Area Governments for activities required by  
14 Chapter 11 (commencing with Section 5850) of Division 5 of the  
15 Public Resources Code.

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

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

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

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

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

39 99247. For purposes of Section 99246, and as used elsewhere  
40 in this article:

1 (a) “Operating cost” means all costs in the operating expense  
2 object classes exclusive of the costs in the depreciation and  
3 amortization expense object class of the uniform system of  
4 accounts and records adopted by the Controller pursuant to Section  
5 99243. “Operating cost” excludes all subsidies for commuter rail  
6 services operated on railroad lines under the jurisdiction of the  
7 Federal Railroad Administration, all direct costs for providing  
8 charter services, all vehicle lease costs, and principal and interest  
9 payments on capital projects funded with certificates of  
10 participation.

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

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

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

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

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

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

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

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

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

1 SEC. 4. Section 99268.2 of the Public Utilities Code is  
2 amended to read:

3 99268.2. In the case of an operator required to be in compliance  
4 with Section 99268 under Section 99268.1, the operator may be  
5 allocated additional funds that could not be allocated to it because  
6 of those requirements, if it maintains, for the fiscal year, a ratio of  
7 fare revenues to operating cost, as defined by subdivision (a) of  
8 Section 99247, at least equal to one-fifth if serving an urbanized  
9 area or one-tenth if serving a nonurbanized area.

10 SEC. 5. Section 99268.3 of the Public Utilities Code is  
11 amended to read:

12 99268.3. (a) In the case of an operator that is serving an  
13 urbanized area, and that was eligible for funds under this article  
14 during the 1978–79 fiscal year even though not required to be in  
15 compliance with Section 99268 or that commenced operation after  
16 that fiscal year, the operator shall be eligible for those funds in  
17 any fiscal year, commencing with claims for the 1980–81 fiscal  
18 year, if it maintains, for the fiscal year, a ratio of fare revenues to  
19 operating cost, as defined by subdivision (a) of Section 99247, at  
20 least equal to one-fifth.

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

27 (1) The requirements of Section 99268.

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

29 SEC. 6. Section 99268.4 of the Public Utilities Code is  
30 amended to read:

31 99268.4. In the case of an operator that is serving a  
32 nonurbanized area, and that was eligible for funds under this article  
33 during the 1978–79 fiscal year even though not required to be in  
34 compliance with Section 99268 or that commenced operation after  
35 that fiscal year, the operator shall be eligible for those funds in  
36 any fiscal year, commencing with claims for the 1980–81 fiscal  
37 year, if it maintains, for the fiscal year, a ratio of fare revenues to  
38 operating cost, as defined by subdivision (a) of Section 99247, at  
39 least equal to one-tenth.

1 SEC. 7. Section 99268.17 of the Public Utilities Code is  
2 amended to read:

3 99268.17. (a) Notwithstanding subdivision (a) of Section  
4 99247, the following costs shall be excluded from the definition  
5 of “operating cost” for the purposes of calculating any required  
6 ratios of fare revenues to operating cost specified in this article:

7 (1) The additional operating costs required to provide  
8 comparable complementary paratransit service as required by  
9 Section 37.121 of Title 49 of the Code of Federal Regulations,  
10 pursuant to the federal Americans with Disabilities Act of 1990  
11 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator’s  
12 paratransit plan pursuant to Section 37.139 of Title 49 of the Code  
13 of Federal Regulations that exceed the operator’s costs required  
14 to provide comparable complementary paratransit service in the  
15 prior year as adjusted by the Consumer Price Index.

16 ~~(2) Fuel.~~

17 ~~(3) Alternative fuel programs.~~

18 ~~(4) Power, including electricity.~~

19 ~~(5) Insurance premiums and payments in settlement of claims~~  
20 ~~arising out of the operator’s liability.~~

21 ~~(6) State or federal mandates.~~

22 (2) *Cost increases beyond the change in the Consumer Price*  
23 *Index for all of the following:*

24 (A) *Fuel.*

25 (B) *Alternative fuel programs.*

26 (C) *Power, including electricity.*

27 (D) *Insurance premiums and payments in settlement of claims*  
28 *arising out of the operator’s liability.*

29 (E) *State and federal mandates.*

30 ~~(7)~~

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

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

39 (1) The Controller pursuant to Section 99243.

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

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

5 SEC. 8. Section 99268.19 of the Public Utilities Code is  
6 amended to read:

7 99268.19. If fare revenues are insufficient to meet the  
8 applicable ratio of fare revenues to operating cost required by this  
9 article, an operator may satisfy that requirement by supplementing  
10 its fare revenues with local funds. As used in this section, “local  
11 funds” means any nonfederal or nonstate grant funds or other  
12 revenues generated by, earned by, or distributed to an operator.

13 SEC. 9. Section 99314.6 of the Public Utilities Code is  
14 amended to read:

15 99314.6. (a) Except as provided in Section 99314.7, the  
16 following eligibility standards apply:

17 (1) Except as provided in paragraph (3), funds shall be allocated  
18 for operating or capital purposes pursuant to Sections 99313 and  
19 99314 to an operator if the operator meets either of the following  
20 efficiency standards:

21 (A) The operator shall receive its entire allocation, and any or  
22 all of this allocation may be used for operating purposes, if the  
23 operator’s total operating cost per revenue vehicle hour in the latest  
24 year for which audited data are available does not exceed the sum  
25 of the preceding year’s total operating cost per revenue vehicle  
26 hour and an amount equal to the product of the percentage change  
27 in the Consumer Price Index for the same period multiplied by the  
28 preceding year’s total operating cost per revenue vehicle hour.

29 (B) The operator shall receive its entire allocation, and any or  
30 all of this allocation may be used for operating purposes, if the  
31 operator’s average total operating cost per revenue vehicle hour  
32 in the latest three years for which audited data are available does  
33 not exceed the sum of the average of the total operating cost per  
34 revenue vehicle hour in the three years preceding the latest year  
35 for which audited data are available and an amount equal to the  
36 product of the average percentage change in the Consumer Price  
37 Index for the same period multiplied by the average total operating  
38 cost per revenue vehicle hour in the same three years.

39 (2) If an operator does not meet either efficiency standard under  
40 paragraph (1), the operator shall receive its entire allocation and

1 the funds shall be allocated pursuant to this paragraph. The portion  
2 of the allocation that the operator may use for operations shall be  
3 the total allocation to the operator reduced by the lowest percentage  
4 by which the operator’s total operating cost per revenue vehicle  
5 hour for the applicable year or three-year period calculated pursuant  
6 to subparagraph (A) or (B) of paragraph (1) exceeded the target  
7 amount necessary to meet the applicable efficiency standard. The  
8 remaining portion of the operator’s allocation shall be used only  
9 for capital purposes.

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

15 (A) Exclusion of cost increases beyond the change in the  
16 Consumer Price Index for fuel; alternative fuel programs; power,  
17 including electricity; insurance premiums and payments in  
18 settlement of claims arising out of the operator’s liability; or state  
19 or federal mandates, including the additional operating costs  
20 required to provide comparable complementary paratransit service  
21 as required by Section 37.121 of Title 49 of the Code of Federal  
22 Regulations, pursuant to the federal Americans with Disabilities  
23 Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the  
24 operator’s paratransit plan pursuant to Section 37.139 of Title 49  
25 of the Code of Federal Regulations.

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

28 (b) As used in this section, the following terms have the  
29 following meanings:

30 (1) “Operating cost” means the total operating cost as reported  
31 by the operator under the Uniform System of Accounts and  
32 Records, pursuant to Section 99243 and subdivision (a) of Section  
33 99247.

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

36 (3) “Consumer Price Index,” as applied to an operator, is the  
37 regional Consumer Price Index for that operator’s region, as  
38 published by the United States Bureau of Labor Statistics. If a  
39 regional index is not published, the index for the State of California  
40 applies.

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

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

5 (d) The exclusion of cost increases described in paragraph (3)  
6 of subdivision (a) applies solely for the purpose of calculating an  
7 operator’s eligibility to claim funds pursuant to this section and  
8 does not authorize an operator to report an operating cost per  
9 revenue vehicle hour other than as described in this section and in  
10 Section 99247, 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.