

AMENDED IN ASSEMBLY AUGUST 20, 2015

AMENDED IN ASSEMBLY JULY 15, 2015

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, and 99268.19 of, and to amend, repeal, and add Section 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 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, after the 2015–16 fiscal year, 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, commencing July 1, 2016, 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, on that date, 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.

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

3 99247. For purposes of Section 99246, and as used elsewhere  
4 in this article:

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

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

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

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

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

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

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

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

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

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

1 the agency of the operator responsible for the operation of the  
2 public transportation system even though not employed in that  
3 agency.

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

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

13 SEC. 5. Section 99268.3 of the Public Utilities Code is  
14 amended to read:

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

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

30 (1) The requirements of Section 99268.

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

32 SEC. 6. Section 99268.4 of the Public Utilities Code is  
33 amended to read:

34 99268.4. In the case of an operator that is serving a  
35 nonurbanized area, and that was eligible for funds under this article  
36 during the 1978–79 fiscal year even though not required to be in  
37 compliance with Section 99268 or that commenced operation after  
38 that fiscal year, the operator shall be eligible for those funds in  
39 any fiscal year, commencing with claims for the 1980–81 fiscal  
40 year, if it maintains, for the fiscal year, a ratio of fare revenues to

1 operating cost, as defined by subdivision (a) of Section 99247, at  
2 least equal to one-tenth.

3 SEC. 7. Section 99268.17 of the Public Utilities Code is  
4 amended to read:

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

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

18 (2) Cost increases beyond the change in the Consumer Price  
19 Index for all of the following:

- 20 (A) Fuel.
- 21 (B) Alternative fuel programs.
- 22 (C) Power, including electricity.
- 23 (D) Insurance premiums and payments in settlement of claims  
24 arising out of the operator’s liability.
- 25 (E) State and federal mandates.

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

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

- 34 (1) The Controller pursuant to Section 99243.
- 35 (2) The entity conducting the fiscal audit pursuant to Section  
36 99245.

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

39 SEC. 8. Section 99268.19 of the Public Utilities Code is  
40 amended to read:

1 99268.19. If fare revenues are insufficient to meet the  
2 applicable ratio of fare revenues to operating cost required by this  
3 article, an operator may satisfy that requirement by supplementing  
4 its fare revenues with local funds. As used in this section, “local  
5 funds” means any nonfederal or nonstate grant funds or other  
6 revenues generated by, earned by, or distributed to an operator.

7 SEC. 9. Section 99314.6 of the Public Utilities Code is  
8 amended to read:

9 99314.6. (a) Except as provided in Section 99314.7, the  
10 following eligibility standards apply:

11 (1) Except as provided in paragraph (2), funds shall not be  
12 allocated for operating purposes pursuant to Sections 99313 and  
13 99314 to an operator unless the operator meets either of the  
14 following efficiency standards:

15 (A) The operator’s total operating cost per revenue vehicle hour  
16 in the latest year for which audited data are available does not  
17 exceed the sum of the preceding year’s total operating cost per  
18 revenue vehicle hour and an amount equal to the product of the  
19 percentage change in the Consumer Price Index for the same period  
20 multiplied by the preceding year’s total operating cost per revenue  
21 vehicle hour.

22 (B) The operator’s average total operating cost per revenue  
23 vehicle hour in the latest three years for which audited data are  
24 available does not exceed the sum of the average of the total  
25 operating cost per revenue vehicle hour in the three years preceding  
26 the latest year for which audited data are available and an amount  
27 equal to the product of the average percentage change in the  
28 Consumer Price Index for the same period multiplied by the  
29 average total operating cost per revenue vehicle hour in the same  
30 three years.

31 (2) The transportation planning agency, county transportation  
32 commission, or the San Diego Metropolitan Transit Development  
33 Board, as the case may be, shall adjust the calculation of operating  
34 costs and revenue vehicle hours pursuant to paragraph (1) to  
35 account for either or both of the following factors:

36 (A) Exclusion of costs increases beyond the change in the  
37 Consumer Price Index for fuel; alternative fuel programs; power,  
38 including electricity; insurance premiums and payments in  
39 settlement of claims arising out of the operator’s liability; or state  
40 or federal mandates, including the additional operating costs

1 required to provide comparable complementary paratransit service  
2 as required by Section 37.121 of Title 49 of the Code of Federal  
3 Regulations, pursuant to the Americans with Disabilities Act of  
4 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator’s  
5 paratransit plan pursuant to Section 37.139 of Title 49 of the Code  
6 of Federal Regulations.

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

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

25 (b) As used in this section, the following terms have the  
26 following meanings:

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

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

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

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

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

3 (d) The exclusion of costs increases described in paragraph (2)  
4 of subdivision (a) applies solely for the purpose of calculating an  
5 operator's eligibility to claim funds pursuant to this section and  
6 does not authorize an operator to report an operating cost per  
7 revenue vehicle hour other than as described in this section and in  
8 Section 99247, to any of the following entities:

9 (1) The Controller pursuant to Section 99243.

10 (2) The entity conducting the fiscal audit pursuant to Section  
11 99245.

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

14 (e) The restrictions in this section shall not apply to the  
15 allocation of funds made pursuant to Sections 99313 and 99314  
16 after January 1, 2010, and through the 2015–16 fiscal year.

17 (f) This section shall become inoperative on July 1, 2016, and,  
18 as of January 1, 2017, is repealed, unless a later enacted statute,  
19 that becomes operative on or before January 1, 2017, deletes or  
20 extends the dates on which it becomes inoperative and is repealed.

21 ~~SEC. 10. Section 99314.6 is added to the Public Utilities Code,~~  
22 ~~to read:~~

23 ~~99314.6. (a) Except as provided in Section 99314.7, the~~  
24 ~~following eligibility standards apply:~~

25 ~~(1) Except as provided in paragraph (2), funds shall not be~~  
26 ~~allocated for operating purposes pursuant to Sections 99313 and~~  
27 ~~99314 to an operator unless the operator meets either of the~~  
28 ~~following efficiency standards:~~

29 ~~(A) The operator's total operating cost per revenue vehicle hour~~  
30 ~~in the latest year for which audited data are available does not~~  
31 ~~exceed the sum of the preceding year's total operating cost per~~  
32 ~~revenue vehicle hour and an amount equal to the product of the~~  
33 ~~percentage change in the Consumer Price Index for the same period~~  
34 ~~multiplied by the preceding year's total operating cost per revenue~~  
35 ~~vehicle hour.~~

36 ~~(B) The operator's average total operating cost per revenue~~  
37 ~~vehicle hour in the latest three years for which audited data are~~  
38 ~~available does not exceed the sum of the average of the total~~  
39 ~~operating cost per revenue vehicle hour in the three years preceding~~  
40 ~~the latest year for which audited data are available and an amount~~

1 equal to the product of the average percentage change in the  
2 Consumer Price Index for the same period multiplied by the  
3 average total operating cost per revenue vehicle hour in the same  
4 three years.

5 (2) The transportation planning agency, county transportation  
6 commission, or the San Diego Metropolitan Transit Development  
7 Board, as the case may be, shall adjust the calculation of operating  
8 costs and revenue vehicle hours pursuant to paragraph (1) to  
9 account for either or both of the following factors:

10 (A) Exclusion of costs increases beyond the change in the  
11 Consumer Price Index for fuel; alternative fuel programs; power,  
12 including electricity; insurance premiums and payments in  
13 settlement of claims arising out of the operator's liability; or state  
14 or federal mandates, including the additional operating costs  
15 required to provide comparable complementary paratransit service  
16 as required by Section 37.121 of Title 49 of the Code of Federal  
17 Regulations, pursuant to the Americans with Disabilities Act of  
18 1990 (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.

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

23 (3) Funds withheld from allocation to an operator pursuant to  
24 paragraph (1) shall be retained by the transportation planning  
25 agency, county transportation commission, or the San Diego  
26 Metropolitan Transit Development Board, as the case may be, for  
27 reallocation to that operator for two years following the year of  
28 ineligibility. In a year in which an operator's funds are allocated  
29 pursuant to paragraph (1), funds withheld from allocation during  
30 a preceding year shall also be allocated. Funds not allocated before  
31 the commencement of the third year following the year of  
32 ineligibility shall be reallocated to cost effective high priority  
33 regional transit activities, as determined by the transportation  
34 planning agency, county transportation commission, or the San  
35 Diego Metropolitan Transit Development Board, as the case may  
36 be. If that agency or commission, or the board, determines that no  
37 cost effective high priority regional transit activity exists, the  
38 unallocated funds shall revert to the Controller for reallocation.

39 (b) As used in this section, the following terms have the  
40 following meanings:

1 (1) ~~“Operating cost” means the total operating cost as reported~~  
 2 ~~by the operator under the Uniform System of Accounts and~~  
 3 ~~Records, pursuant to Section 99243 and subdivision (a) of Section~~  
 4 ~~99247.~~

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

7 (3) ~~“Consumer Price Index,” as applied to an operator, is the~~  
 8 ~~regional Consumer Price Index for that operator’s region, as~~  
 9 ~~published by the United States Bureau of Labor Statistics. If a~~  
 10 ~~regional index is not published, the index for the State of California~~  
 11 ~~applies.~~

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

14 (e) ~~The restrictions in this section do not apply to allocations~~  
 15 ~~made for capital purposes.~~

16 (d) ~~The exclusion of costs increases described in paragraph (2)~~  
 17 ~~of subdivision (a) applies solely for the purpose of calculating an~~  
 18 ~~operator’s eligibility to claim funds pursuant to this section and~~  
 19 ~~does not authorize an operator to report an operating cost per~~  
 20 ~~revenue vehicle hour other than as described in this section and in~~  
 21 ~~Section 99247, 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 (e) ~~This section shall become operative on July 1, 2016.~~

28 *SEC. 10. Section 99314.6 is added to the Public Utilities Code,*  
 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*  
 39 *latest year for which audited data are available does not exceed*  
 40 *the sum of the preceding year’s total operating cost per revenue*

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

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

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

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 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; or state  
35 or federal mandates, including the additional operating costs  
36 required to provide comparable complementary paratransit service  
37 as required by Section 37.121 of Title 49 of the Code of Federal  
38 Regulations, pursuant to the federal Americans with Disabilities  
39 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 following  
6 meanings:

7 (1) "Operating cost" means the total operating cost as reported  
8 by the operator under the uniform system of accounts and records,  
9 pursuant to Section 99243 and subdivision (a) of Section 99247.

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

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

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

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

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

27 (1) The Controller pursuant to Section 99243.

28 (2) The entity conducting the fiscal audit pursuant to Section  
29 99245.

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

32 (e) This section shall become operative on July 1, 2016.