

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: July 19-20, 2006

Reference No.: 4.3
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Gale Ogawa
Acting Division Chief
Division of Mass Transportation

Subject: **COMMISSION ADVICE AND CONSENT ON TRANSPORTATION DEVELOPMENT ACT
(TDA) REGULATIONS
RESOLUTION G-06-**

RECOMMENDATION:

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) adopt the attached resolution consenting to proposed amendments of the Transportation Development Act (TDA) regulations.

ISSUE:

The Department is proposing to change the TDA regulations, with the advice and consent of the Commission, under the authority granted by Section 99241 of the Public Utilities Code (PUC). PUC 99241 allows the Director of the Department to amend, add, and repeal the regulations as changes to statutes are implemented. Due to the recent changes to the TDA, the California Code of Regulations (CCR) must be changed to keep within the law.

Attached for the Commission's review is a summary of changes to the regulations. Commission consent is needed in order to forward the revised regulations to the Office of Administrative Law for final review and approval.

BACKGROUND:

The Commission is required by the Public Utilities Code Section 99241 to give advice and consent on TDA regulations as prepared by the Department. The regulations are updated to incorporate legislative changes and to interpret and clarify the statutes. The Department prepares revisions to implement the new statutes and reviews its proposed changes with the regional agencies, transit operators and affected agencies. The Department has provided a time period of 45 days to external for review and comment by agencies and has not received any substantive comments regarding the proposed changes to the TDA regulations from the affected agencies. This 45 day period also provided any interested party to request a public hearing. No such request were received.

The Commission typically reviews proposed changes to the TDA regulations and advises the Department on recommended changes and gives its consent. This year the proposed changes to the TDA regulations:

- Amends those sections impacted by the passage of Assembly Bill (AB) 1912 and AB 813
- Makes non-substantive changes to specific wording in the regulations
- Extend the period of allocation for reserved funds from three years to a period not to exceed five years.
- Establish the annual report as the sole document that determines the allocation of State Transit Assistance (STA) for the whole fiscal year.

**CALIFORNIA TRANSPORTATION COMMISSION
RESOLUTION G-06-___
CONSENTING TO PROPOSED AMENDMENTS OF THE
TRANSPORTATION DEVELOPMENT ACT REGULATIONS**

- 1.1 WHEREAS, Section 99241 of the Public Utilities Code provides that the implementation of the Transportation Development Act shall be subject to the regulations adopted by the Director of the Department of Transportation, with the advice and consent of the California Transportation Commission; and
- 1.2 WHEREAS, the Director has proposed changes to the regulations to implement amendments to the Act contained in the Statutes of 1992; and
- 1.3 WHEREAS, the Department has mailed the proposed changes to city councils, boards of supervisors, county auditor controllers, transportation planning entities, and transit operators statewide for review and comment; and
- 1.4 WHEREAS, the Department provided a 45day period, ending 5:00 p.m. April 3, 2006, for any interested party to request a public hearing, receiving no request within the said period.
- 2.1 NOW, THEREFORE, BE IT RESOLVED that the California Transportation Commission does hereby consent to the proposed changes to the Transportation Development Act regulations, as presented by the Director of the Department of Transportation.

**REGULATION
PACKAGE
2006**

CALIFORNIA DEPARTMENT OF TRANSPORTATION

NOTICE IS HEREBY GIVEN BY THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO AMEND, ADD, AND REPEAL ADMINISTRATIVE REGULATIONS

AUTHORITY TO ADOPT REGULATIONS

The Director of the California Department of Transportation (Department) proposes to amend, add, and repeal administrative regulations under the authority granted by Section 99241 of the Public Utilities Code (PUC). These regulations are relative to the Mills-Alquist-Deddeh Act, also known as the Transportation Development Act (TDA) Statutes: Public Utilities Code, Division 10, Part 11, Chapter 4, Transportation Development. Regulations: California Code of Regulations, Title 21, Chapter 3, Subchapters 2 and 2.5.

INITIAL STATEMENT OF REASONS

This regulatory action proposes to amend the regulations in Title 21, Division 3 of the CCR for consistency and to effectively serve the Department, local transportation entities, and the public. The Director has prepared an initial statement of reasons for adopting these regulations. The statement includes the specific purpose of each regulatory interpretation, requirement, or prohibition, and the factual basis for determining that each regulatory interpretation, requirement, or prohibition is necessary.

ADOPTION OF PROPOSED REGULATIONS

At the close of the written comment period, the Director may, with the advice and consent of the California Transportation Commission, adopt the proposed regulations substantially as directed below. Alternatively, the Director may adopt the regulations with modifications if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be made available to the public at least 15 days prior to the date on which the Director adopts the regulations. A request for a copy of any regulation as modified should be addressed to the person identified on page 4 of this notice. The office will accept written comments on the regulations as modified for 15 days after the date on which they are made available.

COST STATEMENT AND DETERMINATIONS

The Director of the Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any State agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Significant Statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Adoption of this regulatory action will not (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business within the State of California.

Significant effect on housing costs: None.

Small Business Determination: The Department has determined that the proposed regulatory action will not affect small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, Subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Gordon Arruda
Division of Mass Transportation
California Department of Transportation
1120 N Street, MS-39
Sacramento, CA 95814
(916) 654-9396

Questions on the substance of the proposed regulatory action may be directed to Mr. Arruda.

Please direct requests for copies of the proposed text (the "express terms") of the regulatory action, the initial statement of reasons, the modified text of the regulatory action, if any, or other information upon which the rulemaking is based to Mr. Arruda at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Gordon Arruda at the address or phone number listed above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Arruda at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Department's website at www.dot.ca.gov/hq/MassTrans.

INTRODUCTION

The Mills-Alquist-Deddeh Act, also known as the Transportation Development Act (TDA), Chapter 4 (commencing with Section 99200) of Division 10 of the PUC, makes funding available for local transportation purposes through two funding sources. One source is the Local Transportation Fund (LTF). The other is the State Transit Assistance (STA) fund.

The TDA provides that the Director, with the advice and consent of the California Transportation Commission, shall adopt regulations to implement the TDA and may revise these regulations from time to time (PUC, Section 99241). The adopted regulations implementing the TDA are codified in Subchapter 2 and 2.5 of Chapter 3 of Title 21 of the CCR. Regulations that are applied to the LTF only or to the TDA generally are in Subchapter 2 (commencing with Section 6600). Those that apply specifically to the STA program are in Subchapter 2.5 (commencing with Section 6700).

Some of the following amendments are in order to clarify and interpret statutory changes made to the TDA by Chapter 201 (AB 1912), and Chapter 354 (AB 813), Statutes of 2003.

INITIAL STATEMENT OF REASONS

SECTION 6633.2. "FARE AND LOCAL SUPPORT RATIOS"

SPECIFIC PURPOSE OF THE REGULATION.

The amendment reflects recently enacted amendments to the provisions of the controlling statute, PUC Section 99268.17.

NECESSITY.

The proposed amendment to the regulation is necessary to bring the regulation into conformance with the controlling statute.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Change does not create an economic impact on any businesses.

Section 6633.2 (f)(1)

This section of the regulations currently reads: "~~Until January 1, 1997, the additional operating cost to a transit operator of providing comparable complementary paratransit services, pursuant to the Americans with Disability Act are excluded from operating cost.~~"

This provision, having expired, will now be amended to read:
Until January 1, 2007, any increase in the cost of providing complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations over a prior year cost adjusted by the Consumer Price Index shall be excluded from the definition of operating cost for purposes of calculating the required ratio of fare revenues to operating cost.”

This exemption is provided by AB 813 and has already been amended in the PUC Section 99268.17 (a)(1).

Section 6633.2 (f)(3)

This section of the regulations currently reads: *“Until January 1, 2000, the amount paid by an operator in disposition of claims arising out of the operator’s liability is excluded from the operating cost pursuant to Public Utilities Code Section 99268.17.”*

This provision, having expired, will now read: *“Until January 1, 2007, any increase in the cost of liability insurance premiums that exceed the prior year premium adjusted by the Consumer Price Index shall be excluded from the definition of operating cost for purposes of calculating the required ratio of fare revenues to operating expense.”*

This is a new exemption provided by AB 813 and has already been amended in PUC Section 99268.17 (a)(2).

SECTION 6648. "ALLOCATIONS RESERVED IN THE FUND"

SPECIFIC PURPOSE OF THE REGULATION.

The amendment is intended to allow allocations for up to five years, as opposed to three years, to reflect the five-year planning cycles of local entities.

NECESSITY.

The proposed amendment to the regulation is necessary to improve transportation planning activities.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Change does not create an economic impact on any businesses.

Section 6648

This section will be amended to allow allocations from the Local Transportation Fund (LTF) to be reserved for up to five years. The current regulation allows allocations from the LTF to be reserved up to only three years. Many times funds from the LTF are used as matching funds for federal grants. It is taking longer for federal grant moneys to be dispersed. Allowing the reserving of LTF funds to five years gives greater flexibility in utilizing matching funds for transit projects.

The third paragraph of this section will be amended to read “*Any moneys allocated and reserved in the LTF and not authorized for payment within ~~three years~~ five years after the date of allocation shall cease to be allocated or reserved and shall become and be treated as an unallocated apportionment retained in the fund in accordance with Section 6655.1.*”

SECTION 6662.5. "PERFORMANCE AUDITS OF TRANSPORTATION PLANNING AND PROGRAMMING ENTITIES"

SPECIFIC PURPOSE OF THE REGULATION.

The amendment reflects recently enacted amendments to the provisions of the controlling statute, PUC Section 99246.

NECESSITY.

The proposed amendment to the regulation is necessary to bring the regulation into conformance with the controlling statute.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Change does not create an economic impact on any businesses.

Section 6662.5

A new subsection (c) will be added to Section 6662.5 as a result of the passage of AB 813. A new subsection has already been added to the controlling statute Section 99246 (e). This new subsection will read: *“The performance audit prepared pursuant to this section shall be made available to the public pursuant to the California Public Records Act (Chapter 3.5, commencing with Section 6250) of Division 7 of Title 1 of the Government code.”*

SECTION 6663. "ENTITIES RESPONSIBLE FOR FISCAL AND PERFORMANCE AUDITS OF CLAIMANTS"

SPECIFIC PURPOSE OF THE REGULATION.

The amendment reflects recently enacted amendments to the provisions of the controlling statute, PUC Section 99246.

NECESSITY.

The proposed amendment to the regulation is necessary to bring the regulation into conformance with the controlling statute.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Change does not create an economic impact on any businesses.

Section 6663 (b)

A new subsection (2) will be added to Section 6663 (b). This addition is a result of the passage of AB 813 and has already been added to the controlling statute Section 99246 (e). This new subsection will read: *“The performance audit prepared pursuant to PUC Section 99246 (e) shall be made available to the public pursuant to the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code.”*

SECTION 6714 (b). "ALLOCATION"

SPECIFIC PURPOSE OF THE REGULATION.

The proposed amendment will alleviate the administrative burden faced by local entities by permitting an expedited process for the adjustment of relevant allocations.

NECESSITY.

The proposed amendment to the regulation is necessary to provide local entities with the ability to more easily make adjustments to allocations. The proposed amendment is intended to alleviate the administrative burden of going through the process of adopting a resolution every time there needs to be an adjustment made to an allocation. If a regional entity wants to require such an action, it may do so. But it will no longer be construed that the CCR requires such an action.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The technical change in this regulation does not create an economic impact on any businesses.

Section 6714 (b)

Replace the word “resolution” with “allocation instruction.” This change will also occur twice in Section 6753. This change is intended to alleviate the administrative burden of going through the process of adopting a resolution every time there needs to be an adjustment made to an allocation to a claimant. If a regional entity wants to require a resolution it may do so. But it will no longer be construed that the CCR requires such an action. This regulation will now read: “*An action by a regional entity setting apart moneys in its state transit assistance fund for a claimant for a purpose authorized in the Act and taking effect by ~~resolution~~ **allocation instruction**, pursuant to Section 6753.*”

SECTION 6722 (a). "REVENUE BASIS FOR ALLOCATION"

SPECIFIC PURPOSE OF THE REGULATION.

The proposed amendment will permit more stability and predictability in budgeting by not changing the factors (percentages) of the estimated funds allocated to operators in a fiscal year.

NECESSITY.

The proposed amendment will provide operators more stability in budgeting for their operations. Each year the State Controller's Office, based on data from the last completed fiscal year, establishes factors (percentages) that determine what portion of available money from the State Transit Assistance (STA) fund each region and operator can expect to get. As the fiscal year progresses toward the third and fourth quarters, new factors are established based on more recent data. The changing of these factors can significantly alter the originally budgeted/expected funding, often causing delays allocating funds for the third and fourth quarters. This can also require an operator to make significant adjustments to the operations that could compromise the level of services. This causes instability, especially with small transit providers who are already operating on a "shoestring" budget. The amending of Section 6722 (a) will remedy this by establishing the factors established at the beginning of the fiscal year (based on the data of the last completed fiscal year) will apply to the whole year, not just the first half.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The technical change in this regulation does not create an economic impact on any businesses.

Section 6722 (a)

Currently this section reads: *~~"For the purpose of allocating funds appropriated in each fiscal year pursuant to Section 99314, an operator's revenue for the prior fiscal year shall be determined by the State Controller from the annual report submitted to the~~*

Legislature by the State Controller pursuant to Section 99243.5 of the Public Utilities Code. Allocations made before the State Controller's report becomes available shall be made on the basis of estimates as deemed most appropriate by the State Controller. Subsequent allocations shall be adjusted accordingly."

This section will now read: *"For the purpose of allocating funds appropriated in each fiscal year pursuant to Section 99314, an operator's revenue basis shall be determined by the State Controller's report available at the time of the January estimate, which is made pursuant Section 99312.7 (a) of the Public Utilities Code. The revenue basis for that fiscal year will thereafter remain unchanged."*

SECTION 6753. "ALLOCATION RESOLUTION INSTRUCTION"

SPECIFIC PURPOSE OF THE REGULATION.

The proposed amendment to the regulation clarifies language that will not require a potential lengthy process to obtain a resolution every time an adjustment needs to be made to an allocation.

NECESSITY.

The proposed amendment is intended to alleviate the administrative burden of going through the process of adopting a resolution every time there needs to be an adjustment made to an allocation. If a regional entity wants to require such an action, it may do so. But it will no longer be construed that the CCR requires such an action.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The technical change in this regulation does not create an economic impact on any businesses.

Section 6753

There are two places in the first paragraph of this section that will replace the word “resolution” with either “instruction” or “allocation instruction.” With those changes the fourth sentence of the first paragraph will read: “*Each allocation resolution instruction shall designate (1) the fiscal year for which the allocation is made, (2) the amount allocated to the claimant for each of the purposes defined in Sections 6730 and 6731, and (3) any other terms and conditions of the allocation.*”

The last sentence of the first paragraph will now read: “*The resolution allocation instruction shall also specify conditions of payment and may call for a single payment, for payments as moneys become available, or for payment by installments monthly, quarterly, or otherwise.*”

SECTION 6754. "REQUIRED FINDINGS"

SPECIFIC PURPOSE OF THE REGULATION.

The proposed amendment to the regulation is a non-substantive change removing language removed from the controlling statute and renumbering remaining subsections.

NECESSITY.

This amendment is necessary to remove language that was recently removed from the controlling statute, PUC Section 99314.5.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the amendment to this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The change does not create an economic impact on any businesses.

Section 6754

There are two amendments to this section. The first is the deletion of subsection (b)(2). This requirement is no longer in effect per AB 1912 and has already been deleted from the controlling statute PUC Section 99314.5 (e)(1) and (2). Originally this section allowed an operator an allocation of funds under the TDA if they were not bound by contract to exclude the hiring/employing of part-time drivers. AB 1912 eliminated this provision. With the deletion of this subsection, subsection (3) will now be subsection (2) and subsection (4) will now be subsection (3).

The second amendment to this section will be to replace the current verbiage in subsection (3), formerly subsection (4), with language that directly quotes the controlling statutes (PUC Section 99314.6 (b)(1) and (2)). Subsection (3) will now read: *“The regional transportation agency shall adjust the calculation of operating cost and revenue vehicle hours to account for either or both of the following: (I) Exclusion of the increases above the Consumer Price Index for fuel, alternative fuel programs, power including electricity, insurance premiums and payments in settlement of claims, or state or federal mandates, including the additional cost required to provide complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations. (II) Exclusion of startup cost for new services for a period of not more than two fiscal years after the end of the fiscal year the service was initiated.”* This would also make the new service period consistent with PUC Section 99268.8.