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CALIFORNIA
TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION
CONSENTING TO PROPOSED AMENDMENTS OF THE TRANSPORTATION DEVELOPMENT ACT REGULATIONS

RESOLUTION G-08-04

1.1 WHEREAS, Section 99241 of the Public Utilities Code provides that the implementation of the Transportation Development Act (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 California Code of Regulations Section 6633.2 to implement amendments to the Act contained in the Statutes of 2007; 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 45-day period, ending 5:00 p.m., August 13, 2007, for any interested party to request a public hearing, receiving no request within the said period.

2.1 NOW, THEREFORE, BE IT RESOULVED 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 2008

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 (CCR), Title 21, Chapter 3, Subchapters 2 and 2.5.

INITIAL STATEMENT OF REASONS

This regulatory action proposes to amend the regulations in Title 21, Chapter 3 of the CCR for consistency with recently amended Section 99268.17 of the PUC, and to effectively serve the Department, local transportation entities, and the public. The Director has prepared an initial statement of reasons (see page 5) 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 (August 13, 2007), 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 3 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/State-TDA.

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 354 (AB 813), Statutes of 2003.

INITIAL STATEMENT OF REASONS

SECTION 6633.2. "FARE AND LOCAL SUPPORT RATIOS"

SPECIFIC PURPOSE OF THE REGULATION.

The regulation sets forth the requirements for an operator or transit service claimant regarding the required ratio of fare revenues to operating cost. It establishes the required ratio an operator or transit service claimant must have in order to be reimbursed pursuant to various sections of the Public Utilities Code.

NECESSITY.

The proposed amendments are necessary to conform this regulation to controlling statute of Public Utilities Code section 99268.17, which has been amended.

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. Fare and Local Support Ratios.

To qualify under Public Utilities Code section 99268.2, 99268.3, or 99268.4, an operator or transit service claimant shall meet each of the conditions contained in subdivision(a) and (b) for its services to the general public. To qualify under Public Utilities Code section 99268.5(c) or 99268.12 or 99405(c), an operator or transit service claimant shall meet the conditions contained in subdivision(c), (d) or (e) respectively.

(a) The ratio of fare revenues to operating cost shall be at least the greater of the following ratios:

(1) Twenty percent if the claimant is serving an urbanized area, ten percent if the claimant is serving a non-urbanized area, or an intermediate percentage if determined by the transportation planning agency pursuant to its rules and regulations as adopted pursuant to section 6645. In a newly designated urbanized area, the transportation planning agency or county transportation commission may grant an operator up to 5 years from the July 1 of the year following the year of the census to meet the new farebox requirements.

(2) The ratio of fare revenues to operating cost that the claimant had for such services during the 1978-79 fiscal year.

(b) The ratio of the sum of fare revenues and local support to operating cost shall be at least the ratio that the claimant had for its services to the general public during the 1978-79 fiscal year, unless the 1978-79 ratio was less than the ratio described in paragraph (a)(1) of this section.

(c) For a claimant in the Counties of Fresno, Riverside, and Ventura, the ratios described in paragraph (a) (2) and subdivision (b) of this section shall not apply. A claimant in one of these counties shall qualify as provided under Public Utilities Code section 99268.5(c) if it meets the ratio described in paragraph (a) (1) of this section.

(d) The ratio of fare revenues to operating cost of not less than fifteen (15%) percent may be set by the transportation planning agency or county transportation commission for an operator which operates in a county with a population of 500,000 or less and serving an urbanized area where funds may be allocated under section 99400 of the Public Utilities Code.

(e) Local guidelines for transit service claimants may be adopted to supersede this section by the transportation planning agency or county transportation commission pursuant to Public Utilities Code section 99405(c).

(f) In calculating the fare revenue to operating cost ratio, the following modifications pursuant to Public Utilities Code sections ~~99268.10,~~ 99268.16 and 99268.17 should be used:

(1) ~~Until January 1, 1997, the~~ The additional operating costs to a transit operator of providing comparable complementary paratransit services, pursuant to the Americans with Disabilities Act, that exceed operator's prior year costs as adjusted by the CPI are excluded from operating costs.

(2) The costs of providing ridesharing services are excluded from operating costs.

~~(3) Until January 1, 2000, the amount paid by an operator in disposition of claims arising out of the operator's liability is excluded from operating cost, pursuant to Public Utilities Code section 99268.17.~~

(g) An operator may supplement its fare revenues with local funds pursuant to Public Utilities Code section 99268.19.