

Date of Hearing: April 23, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2548 (Friedman) – As Amended April 12, 2018

SUBJECT: Commute benefit policies: Los Angeles County Metropolitan Transportation Authority: South Coast Air Quality Management District

SUMMARY: Authorizes the Los Angeles County Metropolitan Transportation Authority (Metro) to administer a commute benefit program that requires certain employers to provide a commuter benefit option to their employees. Specifically, **this bill:**

- 1) Declares the intent of the Legislature to encourage metropolitan planning organizations, and county transportation commissions, to work with local employers to adopt policies that encourage commuting by means other than driving alone.
- 2) Authorizes Metro to adopt a commute benefit ordinance that requires covered employers, as defined, to offer a pretax option, consistent with federal law, allowing covered employees to exclude from taxable wages employee transit pass or vanpool commuting costs.
- 3) Ensures that a covered employer can offer a more generous commuter benefit than what is included in the ordinance.
- 4) Allows any employer who is required to offer an alternative commute benefit program either on their own initiative or as a condition of a lease, or similar requirement, to seek approval from Metro. Metro can approve an alternative if it provides similar benefits in reducing single-occupant trips.
- 5) Requires that the commute benefit ordinance allow covered employers at least six months to comply after adoption of the ordinance.
- 6) Establishes the role of transportation management associations or transportation management organizations in the place of covered employers in complying with the ordinance.
- 7) Requires the commute benefit ordinance to specify how the implementing agencies will inform covered employers, how compliance will be demonstrated, the procedures for proposing and criteria used to evaluate an alternative commuter benefit, and any consequences for non-compliance.
- 8) Prohibits the use of federal planning funds to implement the commute benefit program.
- 9) Defines "covered employee" to mean an employee who performed at least an average of 20 hours of work per week within the previous calendar month within the area where the ordinance is adopted.
- 10) Defines "covered employer" to mean any employer for which an average of 50 or more employees at a worksite perform work for compensation on a full-time basis within the area where a commute benefit ordinance is adopted.

- 11) Prohibits Metro from adopting a commute benefit ordinance affecting any employer covered by a similar program required by a South Coast Air Quality Management District (SCAQMD) rule or regulation.
- 12) Requires Metro on or before January 1, 2022, if they implement a commute benefit ordinance, to submit a report to the transportation policy committees of the Legislature on the effectiveness of the ordinance and sets requirements for that report.

EXISTING LAW:

- 1) Establishes Metro with the responsibility for serving as the regional transportation planning agency, including planning and programming transportation funding and the transit operator for fixed guideway and bus systems in Los Angeles County.
- 2) Establishes SCAQMD with the primary responsibility for controlling stationary sources of air pollution in the South Coast Air Basin, including parts of Los Angeles, Riverside, San Bernardino counties and all of Orange County.
- 3) Requires SCAQMD to adopt, implement, and enforce transportation control measures for the attainment of state or federal ambient air quality standards, in accordance with specified procedures.
- 4) Authorizes the Metropolitan Transportation Commission (MTC) and the Bay Area Air Quality Management District (BAAQMD) to administer a San Francisco Bay Area commute benefits program that requires certain employers to provide commuter benefit options to their employees.
- 5) Authorizes air districts to adopt and implement regulations that reduce or mitigate emissions from indirect and areawide sources of air pollution and also encourage or require the use of measures which reduce the number or length of vehicle trips.
- 6) Federal law allows employees to use pre-tax dollars, up to \$260 per month, excluded from gross income, to pay for transit commuting and parking costs through employer-sponsored programs.
- 7) Enacts the Global Warming Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], that requires the California Air Resources Board (ARB) to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to the statewide GHG emissions levels in 1990 to be achieved by 2020.
- 8) Enacts SB 32 (Pavley), Chapter 249, Statutes of 2016, that requires ARB to ensure that statewide GHG emissions are reduced to 40% below the 1990 level by 2030.
- 9) Enacts SB 375 (Steinberg), Chapter 728, Statutes of 2008, that requires ARB to provide each region of the state with GHG emission reduction targets for the automobile and light truck sector. Requires, in Metropolitan Planning Organization (MPO) areas, a Regional Transportation Plan (RTP) to include a Sustainable Communities Strategies (SCS) as part of the regional transportation plan to achieve the targets for GHG reduction.

FISCAL EFFECT: None, this bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: According to a global traffic scorecard published in 2017 by traffic data analyst company, Inrix, Los Angeles (L.A) County is home to the worst congestion in the world. Angelenos spent an average of 102 hours last year in traffic jams during peak congestion hours, costing drivers over \$2,800 each and the city \$19.2 billion from direct and indirect costs. While congestion is on the rise, transit ridership in L.A. continues to decline. According to a recent study by the University of California Institute for Transportation Studies, in spite of the heavy investment in public transit in the Southern California region in the past 25 years, transit ridership hit its peak in 1985. In the 1990's and 2000's ridership rose and fell moderately, but has been mostly declining since 2007, having fallen constantly since 2013. One of the major reasons cited for the decline in transit ridership is the growth in access to a vehicle.

Transportation Demand Management (TDM) activities are strategies and policies employed by metropolitan areas to reduce travel demand and help relieve congestion. Vehicle trip reduction programs, coupled with transit incentives are important tools to help meet the state's goals of reducing vehicle miles traveled (VMT), increasing transit ridership, and reducing GHG emissions. With the passage of SB 375, the state's MPOs are required to develop SCSs to reduce GHGs by a certain amount determined by the ARB. Adopting innovative strategies to increase mode shift is paramount to meeting the targets. Incentives for employees to utilize alternative modes to commute, such as ride-sharing and transit, can contribute to reducing congestion, including single-occupant trips, and improve air quality. This bill authorizes Metro to adopt a commute benefit ordinance in Los Angeles County to complement and expand existing vehicle trip reduction programs.

This bill is based on a successful commute benefit program administered in the Bay Area by MTC and BAAQMD. In 2012, SB 1339 (Yee), Chapter 871, Statutes of 2012, authorized the two agencies to develop a pilot ordinance, and later SB 1128 (Glazer), Chapter 483, Statutes of 2016, made the program permanent. In the Bay Area, MTC offers four options to covered employers in the nine county Bay Area region. Of the four options, the one most chosen by employers is a pre-tax option, which allows employees to exclude their transit or vanpool expenses from taxable income for up to \$260 per month, in accordance with federal law. According to MTC, this option covers roughly 82% of the participating employers. The option is easy to administer and also saves money for the employer and the employee. Specifically, in a report submitted on the pilot program, MTC found that an employer could reduce their payroll taxes by as much as \$238 per employee per year. Employees in the 25% federal income tax bracket and the 6.5% state income tax bracket can save up to \$965 per year. Additionally, MTC found that in the first year of the program 4.3 million fewer vehicle trips were made as a result of the benefit, reducing VMT by 86 million miles. This translates to a reduction of nearly 36,000 tons of GHGs or 2.7% of the Bay Area's GHG reduction target.

Additionally, in the Los Angeles area, including parts of Riverside and Orange Counties, the SCAQMD administers an extensive commute benefit program. Specifically, SCAQMD Rule 2022 requires employers with over 250 or more employees at a worksite, on a full-time basis, to establish commuter programs to meet the designated emission reduction target set by SCAQMD. Some of these include a commuter choice program, including pre-tax set aside benefits, ride-sharing, flexible work schedules, parking cash out, and incentives for bike and carpool. The

SCAQMD program also provides options for extensive outreach and marketing by the employers for their employees, including new hire orientation, a transit information center, rideshare bulletin boards, rideshare meetings to solicit input, rideshare matching programs, and a points program to earn rewards. According to SCAQMD, they currently have 1,360 worksites in the program.

This bill would authorize Metro to establish a commuter benefits ordinance in L.A. County that would give commuters the ability to set aside up to \$260 per month of their paycheck pre-tax to cover the cost of ride-sharing, vanpools, and transit. The new ordinance would apply to employers that are not currently subject to the regulations established under Rule 2202. In fact, the bill specifically prohibits Metro from approving any commute benefit ordinance that affects the SCAQMD program. Currently, that would mean that the Metro program would cover employers with 50 to 249 employees at a worksite. However, in the future, the Metro program would have to be updated based on any actions by SCAQMD to raise or lower the amount of employers covered by Rule 2022. Metro estimates that 24-26% of the worksites in L.A. County, or 64,000 to 69,000 of approximately 265,000 worksites, have between 50-249 employees.

Additionally, a few municipalities have their own commute benefit or TDM programs that vary in size and complexity for city employees and private businesses. Currently, the cities of Burbank, Glendale, West Hollywood, Pasadena, and the City of L.A. have some type of program. The City of Santa Monica runs their program with official delegation authority from SCAQMD, meaning they administer the SCAQMD Rule 2022 program and any necessary compliance enforcement.

According to the author, “The intent [of the bill] is to expand the number of businesses participating in commuter benefits programs in Los Angeles County to encourage transit usage, mode switch and reduce GHG emissions. The state has aggressive GHG emission reduction targets, and tools like the program proposed in this legislation are key to meeting those targets.”

According to Metro, the sponsor of the bill, “An enacted commuter benefits ordinance would provide Metro the authority to work with employers for the significant opportunity to reduce single passenger commutes, reduce vehicle miles traveled, and reduce GHG emissions countywide through incentivizing alternative modes of transportation.”

Writing in support of the bill, the City of Los Angeles notes that “This bill would give Los Angeles County a valuable new tool to help ease congestion on our highways and streets. This bill will also promote sustainable transportation by encouraging Angelenos to commute by transit or vanpool.”

Committee Comments: As the state continues to set aggressive GHG reduction goals, shifting people from single occupant trips is vital to our success. Expanding commute benefit programs in the world’s most congested metropolitan area would help employers and employees find travel alternatives. Although the Bay Area has found that education and marketing campaigns aimed at covered employers has been successful in bringing businesses into the program, they do have authority to enforce compliance. In fact, last summer the BAAQMD issued a warning to unregistered employers that they could face financial penalties for not coming into compliance. SCAQMD has very strict enforcement of their programs as they also have enforcement authority under air quality law. Metro, however, does not have similar authority. Metro will have to conduct extensive outreach and marketing to have businesses comply. The bill requires Metro to

complete a report and submit it to the Legislature by January 1, 2022, if they implement the ordinance. This is a good way for the Legislature to review their progress and how the program is working and benefitting L.A. County. Finally, as mentioned, there are numerous existing commute benefit programs in cities in L.A. County. Although the bill prohibits Metro from overlapping the SCAQMD program, the author may want to consider an amendment to protect those cities' programs as well.

Previous legislation: SB 1128 (Glazer), Chapter 483, Statutes of 2016, permanently authorizes a commute benefit program for the Bay Area managed by the MTC and BAAQMD.

SB 1339 (Yee), Chapter 871, Statutes of 2012, authorizes a pilot program for MTC and BAAQMD to establish ordinance requiring certain Bay Area employers to offer commute benefits to employees.

SB 582 (Yee) of 2011, would have authorizes a metropolitan planning organization jointly with the local air quality management district or air pollution control district to adopt a commute benefit ordinance. SB 582 was vetoed.

SB 728 (Lowenthal), Chapter 359, Statutes of 2009, authorizes local entities to enforce the provisions of the parking cash-out law.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Metropolitan Transportation Authority (Sponsor)
Association for Commuter Transportation
Honorable Eric Garcetti, Mayor, City of Los Angeles
Edenred Commuter Benefit Solutions
Enterprise Holdings

Opposition

None on file

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