

Date of Hearing: June 26, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 614 (Hertzberg) – As Amended May 4, 2017

SENATE VOTE: 39-0

SUBJECT: Public transportation agencies: administrative penalties

SUMMARY: Makes various changes to the civil administrative process used by public transportation agencies for fare evasion and other passenger misconduct violations.

Specifically, **this bill:**

- 1) Caps the administrative penalties for the first and second violation at \$125 and the third and subsequent violations at \$200.
- 2) Requires the administrative penalties generated from the fare evasion or misconduct violations to be deposited with the public transportation agency that issued the citation.
- 3) Requires the issuing agency, and the administrative hearing officer if an administrative hearing is needed, to allow payment of the fare evasion or misconduct violation to be paid in installments or deferred if the total amount of the fines is \$200 or more and the person proves an inability to pay in full.
- 4) Requires the issuing agency, and the administrative hearing officer if an administrative hearing is needed, to offer a minor or a person proving financial hardship the option of community service in lieu of payment for a fare evasion or misconduct violation, and the agency may require the community service to be performed at a transit facility.

EXISTING LAW:

- 1) Makes it a crime, punishable as an infraction or misdemeanor, for a person to commit certain acts on or in a facility or vehicle of a public transportation system.
- 2) Authorizes a public transportation agency to enact and enforce an ordinance to impose and enforce an administrative penalty for fare evasion and other passenger misconduct on or in a transit facility or vehicle in lieu of the criminal penalties, as specified.
- 3) Prohibits a public transportation agency from establishing administrative penalty amounts that exceed the maximum penalty amount established for similar criminal penalties.
- 4) Provides for a process of review of the notice of a fare evasion or misconduct violation and subsequently an administrative hearing before a hearing officer, if requested.
- 5) Provides that a hearing officer may allow for payment for a fare evasion or misconduct violation in installments or deferred payments if the person proves an inability to pay in full.

- 6) Provides that an administrative hearing officer may require community service in lieu of payment for a fare evasion or misconduct violation.
- 7) Prohibits a minor from being charged with an infraction or misdemeanor for fare evasion violations, but authorizes a public transit agency to assess an administrative penalty not to exceed \$250 upon a first or second violation, and \$400 upon a third or subsequent violation.
- 8) Requires administrative penalties to be deposited in the general fund of the county in which the citation is administered.
- 9) Authorizes the public transportation agency to contract with a private vendor or governmental agency to process notices of violations.

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

COMMENTS: In 2006, SB 1749 (Migden), Chapter 258, Statutes of 2006, authorized the City and County of San Francisco (operator of SFMuni) and the Los Angeles Metropolitan Transportation Agency (Metro) to set up and enforce an administrative penalty and adjudication process for certain public transportation system violations, including failure to pay a fare or misuse of a fare pass. The transit agencies could use this administrative process as an alternative to the criminal court system for the same offenses. The process includes the ability for a person to request a review and contest the citation through a hearing process, but the person avoids the court system. Although SB 1749 provided this administrative process for adults in these jurisdictions, it specifically precluded minors from using it, which forced minors to deal with transit citations through the courts.

Subsequent legislation expanded the authority to all transit agencies to develop and utilize this alternative administrative method for dealing with citations, and allowed its use for minors as well as adults. Additionally, current law allows these transit agencies to set the administrative penalty amounts for these infractions but provides that the amounts shall not exceed the maximum statutory criminal penalties for the same offenses, which is currently up to \$250 for the first and second offense and up to \$400 for a third or subsequent offense. This amount only represents a base fine. The amount spelled out in statute as a fine are base figures, as these amounts are subject to statutorily-imposed penalty assessments, such as fees and surcharges. For example, a \$250 fine could total over \$1,000 after the additional fees are added.

In recent years, the Legislature has debated the issue of abnormally high criminal penalties and assessments in California. Legislative leaders continue to work with the Judicial Council, courts and other stakeholders on this important issue. There have been numerous legislative efforts to provide opportunities for low income people to reduce fines, have payment options or possible alternatives to fines such as community service. These include minor public transit citations such as fare evasion. The most recent effort, SB 882 (Hertzberg), Chapter 167, Statutes of 2016, decriminalized public transit fare evasion for minors by eliminating transit agencies' ability to cite for these infractions and misdemeanors under the penal code. As an alternative, this bill allows minors to continue to be subject to the administrative process set up by the transit agency.

Currently, only SFMuni and Metro are utilizing this administrative process for citations. According to the California Transit Association (CTA), one of the sponsors of this bill, transit agencies cite cost as the main barrier to moving away from the penal code and setting up the

administrative process. Current law requires that all fines collected for the citations be deposited in the county general fund in the county where the citation is issued. The two agencies that currently have an administrative process have agreements with their respective county to receive the revenue from the citations. This revenue helps offset some of the costs associated with establishing and operating the administrative process.

This bill follows up on the work of the author last year by allowing transit agencies that have an administrative process for citations to retain the revenue collected. This bill authorizes the issuing agencies to allow payment of the citation if the total amount is \$200 or more and the person provides evidence of inability to pay in full. Additionally, both minors and those with an inability to pay may perform community service in lieu of payment of the fines. According to the author, the guarantee of the additional funding will provide an incentive for transit agencies to use the administrative process. Further, he states that providing alternatives for vulnerable communities decreases the likelihood that they will fall deeper into poverty, while still imposing a penalty for a committed offense.

As co-sponsors of this bill, CTA and the Western Center of Law and Poverty note that, “as California leads the way to reduce the negative impacts of transportation related violations on the economic conditions of low-income residents with cars, we should also be leading the way in reducing criminalization of low-income residents without cars. SB 614 inches us closer to this goal by allowing transportation agencies to use an administrative procedure to enforce transit laws, it will reduce the need for penal code enforcement and criminal citations.” They go on to state that, “by improving the financial situation of local transportation agencies, we anticipate that there will be improved access to transportation for low-income youth and adults alike, whereby strengthening their ability to exit poverty. By reducing the criminalization of an infraction, we remove a chance that a transit citation will lead a youth or adult into the criminal justice system, which makes it more difficult to succeed.”

In writing in support of this bill, the Santa Clara Valley Transportation Authority discusses the many advantages of the alternative administrative approach; however, they also agree that cost is a factor in setting up and running the system, “a public transit agency would incur one-time costs to set up the administrative process, as well as, ongoing costs to implement it, but would have to cover these added expenses through its existing operating budget, which would impact the resources that would be available for providing transit service.” Further, they state that the county would no longer incur the costs to process these cases through the courts.

Committee comments: There is a concern that remitting the funds generated from the fines and penalties to the issuing agency may incentivize the issuance of citations. The two transit agencies that are currently utilizing this administrative process for fare evasion and misconduct violations report that the fine recovery accounts for roughly 20-35% of the costs of administering the system; however, it keeps minors and adults out of the criminal justice system for these minor offenses. Additionally, this bill caps the fees for these offenses at \$125 for the first and second offense and \$200 for a third or subsequent offense, which is half of the amount allowed under the penal code. This bill also requires agencies to permit the performance of community service in lieu of payments of the penalties for any minor and people who have an inability to pay in full.

The Legislature continues to debate the overall fines and penalties system in California and how it affects certain populations, including low income individuals and minors. Making it easier for

public transit agencies to shift to an administrative process rather than pursuing court remedies for fare evasion and passenger misconduct is a step toward the goal of assisting these populations while still imposing penalties for an offense.

Previous legislation: SB 882 (Hertzberg), Chapter 167, Statutes of 2016, prohibited monies from being charged with a penal code infraction or misdemeanor for public transportation fare evasion.

SB 413 (Wieckowski), Chapter 765, Statutes of 2015, authorized public transportation agencies to utilize an administrative process for minors.

AB 492 (Galgiani), Chapter 366, Statutes of 2012, authorized all public transportation agencies to impose and enforce administrative penalties for fare evasion and passenger misconduct violations, except for minors. Also required the penalties collected by the public transportation agency be deposited in the general fund of the county in which the citation is administered.

AB 426 (Lowenthal), Chapter 100, Statutes of 2011, authorized the Southern California Regional Rail Authority and the North County Transit District to impose and enforce administrative penalties for fare evasion and passenger misconduct violations, except for minors.

SB 1320 (Hancock), Chapter 493, Statutes of 2010, authorized the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, and the Alameda-Contra Costa Transit District to impose and enforce administrative penalties for fare evasion and passenger misconduct violations, except for minors.

SB 1749 (Migden), Chapter 258, Statutes of 2006, authorized the city and county of San Francisco and the Metro to impose and enforce administrative penalties for fare evasion and passenger misconduct violations, except for minors.

REGISTERED SUPPORT / OPPOSITION:

Support

California Transit Association (Co-sponsor)
Western Center on Law and Poverty (Co-sponsor)
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Teamsters Public Affairs Council
Coalition of California Welfare Rights Organizations
San Francisco Bay Area Rapid Transit District
Santa Clara Valley Transportation Authority

Opposition

None on file

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