

Date of Hearing: June 20, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1128 (Glazer) – As Introduced February 17, 2016

SENATE VOTE: 37-0

SUBJECT: Commute benefit policies

SUMMARY: Removes the sunset for the Metropolitan Transportation Commission (MTC) and the Bay Area Air Quality Management District (BAAQMD)-administered San Francisco Bay Area commuter benefits program that requires certain employers to provide commuter benefit options to their employees. Specifically, **this bill:**

- 1) Authorizes MTC and BAAQMD to continue their commute benefits program on a permanent basis by deleting the sunset date of January 1, 2017.
- 2) Deletes bicycle commuting from the pre-tax option of the program to conform to federal law, and adds bicycle commuting to the employer-paid benefit option of the program allowing an employer to offer a bicycle commuting subsidy to employees.
- 3) Deletes the requirement that MTC and BAAQMD issue a report to the Legislature.

EXISTING LAW:

- 1) Establishes BAAQMD with the primary responsibility for controlling stationary sources of air pollution within the nine counties that surround San Francisco Bay, including Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties.
- 2) Establishes MTC, which serves as the Metropolitan Planning Organization (MPO) and the regional transportation planning agency for the San Francisco Bay Area. MTC is responsible for transportation planning, coordinating, and allocating funds from certain state and federal highway and transit programs.
- 3) Allows MTC and the BAAQMD, until January 1, 2017, to jointly adopt a commute benefit ordinance that requires covered employers, as defined, to offer one of the following options to their covered employees, as defined:
 - a) A pretax option consistent with federal law allowing covered employees to exclude from taxable wages employee transit pass, vanpool, or bicycle commuting costs;
 - b) An employer-paid benefit whereby the covered employer offers a subsidy to offset the transit or vanpool commuting costs;
 - c) Transportation furnished by the covered employer at no or low cost to the covered employee in a vanpool, bus, or multi-passenger vehicle operated by or for the employer; and,

- d) An alternative program approved by MTC and BAAQMD that provides similar the same benefits as the other options.
- 4) Requires that the commute benefit ordinance allow covered employers at least six months to comply after adoption of the ordinance.
- 5) Establishes the role of transportation management associations in the place of covered employers in complying with the ordinance.
- 6) 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.
- 7) Requires MTC or the BAAQMD, on or before July 1, 2016, if they implement a commute benefit ordinance, to jointly submit a report to the transportation policy committees of the Legislature on the effectiveness of the ordinance and sets requirements for that report.
- 8) Prohibits the use of MTC's federal planning funds to be used for the implementation and enforcement of the benefit commute ordinance.
- 9) Defines "covered employer" to mean any employer for which an average of 50 or more employees perform work for compensation on a full-time basis within the area where a commute benefit ordinance is adopted.
- 10) 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.
- 11) 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 greenhouse gas emissions levels in 1990 to be achieved by 2020.
- 12) Enacts SB 375 (Steinberg), Chapter 728, Statutes of 2008, that requires the ARB to provide each region of the state with GHG emission reduction targets for the automobile and light truck sector. Requires 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: This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: In 2009, three Bay Area cities, San Francisco, Berkeley, and Richmond, adopted local ordinances requiring employers to offer their employees commuter benefits consistent with federal commuter tax benefits, such as allowing employees to pay their transit or vanpool fare using pre-tax dollars. Based on the success of these programs, in 2012 MTC and BAAQMD sought authorization from the Legislature to adopt an ordinance that would apply to all counties in the region. SB 1339 (Yee), Chapter 871, Statutes of 2012, authorized the two

agencies to develop a pilot ordinance with a January 1, 2017, sunset date. SB 1128 would delete this sunset date, thereby extending the authorization for the program permanently.

According to the author, the goal of the commute benefit program is to promote the use of transit and other alternative commute modes in order to reduce single-occupant vehicle commute trips, traffic congestion, and GHG emissions and other air pollutants from motor vehicles. The program seeks to achieve these objectives by expanding the number of employers who provide commuter benefits to their employees.

In a recent report to the Legislature assessing the pilot, MTC and BAAQMD address the implementation of the program, costs savings to employers and employees, and overall reductions in commuter car trips and GHGs.

Implementation: To implement the program, the agencies did extensive outreach to business groups to work with employers to determine the right option for their employees. A total of 3,910 employers in the Bay Area are registered and participating in the program, with 55% offering a commuter benefit to their employees for the first time. This translates to roughly 472,000 employees who are eligible for a commuter benefit, of which 205,000 are utilizing it. Additionally, of those employees using the program, 44,400 would not travel by an alternative mode of transportation if their employer did not provide a commuter benefit. However, the report estimates that the program may apply to as many as 10,000 Bay Area employers. Although under current law, BAAQMD has the authority to enact penalties for non-compliance, MTC and BAAQMD plan to continue to emphasize compliance assistance over enforcement by publicizing and conducting outreach activities to increase participation.

Savings: The pilot program offers employers four options of commuter benefit for their employees. The pre-tax option, which allows employees to exclude their transit or vanpool expenses from taxable income for up to \$255 per month, was the most widely implemented with 82% of employers offering this option. The option is easy to administer and also saves money for the employer and the employee. Specifically, 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.

Environmental benefits: With the passage of SB 375 (Steinberg), Chapter 728, Statutes of 2008, 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. In the first year of the program 4.3 million fewer vehicle trips were made as a result of the benefit, reducing vehicle miles traveled 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.

In writing in support of SB 1128, the California Transit Association noted that "this bill will benefit employers and the employees through lower payroll and income taxes, and reduced tailpipe emissions and traffic congestion. Moreover, in light of ongoing issues related to aging and deficient transportation infrastructure and increasing costs of living in the Bay Area, this bill is a small step the Legislature can take to lower the cost of commuting and advance California's climate protection goals, all without raising taxes or otherwise harming economic growth."

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

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Air Quality Management District (Sponsor)
Metropolitan Transportation Commission (Sponsor)
Alameda-Contra Costa Transit District
Alameda County Transportation Commission
California Association for Coordinated Transportation
California Transit Association
City and County of San Francisco
Coalition for Clean Air
Golden Gate Bridge, Highway, and Transportation District
Lyft
Napa Valley Transportation Authority
National Resources Defense Council
Peninsula Corridor Joint Powers Authority
Regional Asthma Management and Prevention
San Francisco Bay Area Rapid Transit District
San Francisco Chamber of Commerce
San Francisco Municipal Transportation Agency
San Mateo County Transportation Authority
San Mateo County Transit District
Santa Clara County Board of Supervisors
Solano Transportation Authority
SPUR

Opposition

None on file

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