

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 582

Introduced by Senator Emmerson

(Principal coauthor: Assembly Member Huffman)

February 17, 2011

An act to add and repeal Section 65081 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 582, as amended, Emmerson. Commute benefit policies.

Existing law requires transportation planning agencies to undertake various transportation planning activities, including preparation of a regional transportation plan. Existing law requires transportation planning agencies that are designated under federal law as metropolitan planning organizations to include a sustainable communities strategy as part of the regional transportation plan for their region. Existing law creates air quality management districts *and air pollution control districts* with various responsibilities relative to reduction of air pollution.

This bill, beginning on January 1, 2013, would authorize a metropolitan planning organization jointly with the local air quality management district *or air pollution control district* to adopt a commute benefit ordinance that requires covered employers operating within the common area of the organization and district with a specified number of covered employees to offer those employees certain commute benefits. The bill would require that the ordinance specify certain

matters, including any consequences for noncompliance, and would impose a specified reporting requirement. The bill would provide for the ordinance to be adopted by the county transportation commission rather than the metropolitan planning organization in those counties where the Southern California Association of Governments is the designated metropolitan planning organization. The bill would make its provisions inoperative on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65081 is added to the Government Code,
2 to read:
3 65081. (a) It is the intent of the Legislature to encourage
4 metropolitan planning organizations and local air quality
5 management districts *or air pollution control districts* to work
6 with local employers to adopt policies that encourage commuting
7 by means other than driving alone.
8 (b) Notwithstanding Section 40717.9 of the Health and Safety
9 Code, and except as otherwise provided in subdivision (e), on or
10 after January 1, 2013, a metropolitan planning organization and a
11 local air quality management district *or air pollution control*
12 *district* with respect to the common area within their respective
13 jurisdictions may jointly adopt a commute benefit ordinance that
14 requires covered employers operating within the common area of
15 the organization and district to offer all covered employees one of
16 the following choices:
17 (1) A pretax option: a program, consistent with Section 132(f)
18 of the Internal Revenue Code, allowing covered employees to elect
19 to exclude from taxable wages employee commuting costs incurred
20 for transit passes or vanpool charges, or bicycle commuting, up to
21 the maximum amount allowed by federal tax law.
22 (2) Employer-paid benefit: a program whereby the covered
23 employer offers employees a subsidy to offset the monthly cost
24 of commuting via public transit or by vanpool. In 2013, the subsidy
25 shall be equal to either the monthly cost of commuting via transit
26 or vanpool, or seventy-five dollars (\$75), whichever is lower. This
27 amount shall be adjusted annually consistent with the California
28 Consumer Price Index.

1 (3) Employer-provided transit: transportation furnished by the
2 covered employer at no cost, or low cost as determined by the
3 metropolitan planning organization, to the covered employee in a
4 vanpool or bus, or similar multipassenger vehicle operated by or
5 for the employer.

6 (c) An employer offering, or proposing to offer, an alternative
7 commuter benefit on the employer's own initiative, or an employer
8 otherwise required to offer an alternative commuter benefit as a
9 condition of a lease, original building permit, or other similar
10 requirement, if the alternative is not one of the options identified
11 in subdivision (b), may seek approval of the alternative from the
12 metropolitan planning organization. The metropolitan planning
13 organization may approve an alternative if it determines that the
14 alternative provides at least the same benefit in terms of reducing
15 single-occupant vehicle trips as any of the options in subdivision
16 (b). An employer that offers an approved alternative to covered
17 employees in a manner otherwise consistent with this section is
18 not required to offer one of the options in subdivision (b).

19 The commute benefit ordinance shall provide covered employers
20 with at least six months to comply after the ordinance is adopted.

21 (d) A commute benefit ordinance adopted pursuant to this
22 section shall specify all of the following: (1) how the implementing
23 agencies will inform covered employers about the ordinance, (2)
24 how compliance with the ordinance will be demonstrated, (3) the
25 procedures for proposing and the criteria that will be used to
26 evaluate an alternative commuter benefit pursuant to subdivision
27 (c), and (4) any consequences for noncompliance.

28 (e) In the region served by the multicounty transportation
29 planning agency described in Section 130004 of the Public Utilities
30 Code, the county transportation commission created in each county
31 within that region, rather than the multicounty transportation
32 planning agency, shall be the agency authorized to adopt the
33 commute benefit ordinance pursuant to subdivision (b) in
34 conjunction with the local air quality management district *or air*
35 *pollution control district*.

36 (f) Nothing in this section shall limit or restrict the statutory or
37 regulatory authority of a metropolitan planning organization or an
38 air quality management district *or air pollution control district*.

39 (g) On or before July 1, 2016, a metropolitan planning
40 organization and an air quality management district *or air pollution*

1 *control district* that implement a commute benefit ordinance as
2 provided under this section shall submit a report to the
3 transportation policy committees of each house of the Legislature
4 that includes, but is not limited to, the following elements:

5 (1) A description of the program, including enforcement
6 procedures and any sanctions to be imposed on noncomplying
7 employers.

8 (2) Number of employers confirmed to have complied with the
9 ordinance that did not previously offer a commute benefit
10 consistent with those required by the ordinance.

11 (3) Number of employees who stopped driving alone to work
12 in order to take transit or a vanpool, or to commute by bicycle, as
13 a result of the commute benefit ordinance.

14 (4) Number of single-occupant vehicle trips reduced per month,
15 week, or day as a result of the commute benefit ordinance.

16 (5) Vehicle miles traveled (VMT) and greenhouse gas emission
17 reductions associated with implementation of the commute benefit
18 ordinance.

19 (6) Greenhouse gas emission reductions associated with
20 implementation of the commute benefit ordinance as a percentage
21 of the region's greenhouse gas emission target established by the
22 State Air Resources Board.

23 (7) Number of businesses that received a penalty for not
24 complying with the ordinance and a description of the penalties
25 imposed.

26 (h) As used in this section, the following terms have the
27 following meanings:

28 (1) "Covered employer" means any employer for which an
29 average of 20 or more employees per week perform work for
30 compensation within the area where the ordinance adopted pursuant
31 to this section operates, except that a metropolitan planning
32 organization, at its option, may provide for the ordinance to apply
33 solely to employers with 50 or more employees otherwise meeting
34 the requirements of this paragraph. In determining the number of
35 employees performing work for an employer during a given week,
36 only employees performing work on a full-time basis shall be
37 counted.

38 (2) "Covered employee" means an employee who performed
39 at least an average of 20 hours of work per week within the

1 previous calendar month within the area where the ordinance
2 adopted pursuant to this section operates.

3 (i) This section shall remain in effect only until January 1, 2017,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2017, deletes or extends that date.

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