

Senate Bill No. 582

Passed the Senate July 14, 2011

Secretary of the Senate

Passed the Assembly July 11, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 582, Yee. 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, subject to certain exceptions, 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 8 metropolitan planning organizations within the region served by a specified air district to adopt the ordinance only after the district first acts to adopt the ordinance. The bill would exclude from its provisions an air district with a trip reduction regulation initially adopted prior to the federal Clean Air Act Amendments of 1990 as long as it continues to have a regulation that allows trip reduction as a method of compliance. The bill would make its provisions inoperative on January 1, 2017.

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

SECTION 1. Section 65081 is added to the Government Code, to read:

65081. (a) It is the intent of the Legislature to encourage metropolitan planning organizations and local air quality management districts or air pollution control districts to work with local employers to adopt policies that encourage commuting by means other than driving alone.

(b) Notwithstanding Section 40717.9 of the Health and Safety Code, and except as otherwise provided in subdivision (h), on or after January 1, 2013, a metropolitan planning organization and a local air quality management district or air pollution control district with respect to the common area within their respective jurisdictions may jointly adopt a commute benefit ordinance that requires covered employers operating within the common area of the organization and district to offer all covered employees one of the following choices:

(1) A pretax option: a program, consistent with Section 132(f) of the Internal Revenue Code, allowing covered employees to elect to exclude from taxable wages employee commuting costs incurred for transit passes or vanpool charges, or bicycle commuting, up to the maximum amount allowed by federal tax law.

(2) Employer-paid benefit: a program whereby the covered employer offers employees a subsidy to offset the monthly cost of commuting via public transit or by vanpool. In 2013, the subsidy shall be equal to either the monthly cost of commuting via transit or vanpool, or seventy-five dollars (\$75), whichever is lower. This amount shall be adjusted annually consistent with the California Consumer Price Index.

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

(c) Nothing in this section shall prevent a covered employer from offering a more generous commuter benefit that is otherwise consistent with the requirements of the applicable commute benefit ordinance.

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

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

(f) An employer that participates in or is represented by a transportation management association that provides the employer's covered employees with any of the benefits in subdivision (b), or an alternative benefit determined by the metropolitan planning organization pursuant to subdivision (d) to provide at least the same benefit in terms of reducing single-occupant vehicle trips as any of the options in subdivision (b), shall be deemed in compliance with the regional ordinance, and the transportation management association may act on behalf of those employers in that regard. The metropolitan planning organization and the air quality management district or the air pollution control district adopting the ordinance shall communicate directly with the transportation management association, rather than the participating employers, to determine compliance with the ordinance.

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

(h) In the region served by the air pollution control district established pursuant to Chapter 5.7 (commencing with Section 40600) of Part 3 of Division 26 of the Health and Safety Code, a

commute benefit ordinance may be adopted pursuant to this section only if it is first adopted by the district and then by all eight metropolitan planning organizations located wholly or partially in that region.

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

(j) On or before July 1, 2016, a metropolitan planning organization and an air quality management district or air pollution control district that implement a commute benefit ordinance as provided under this section shall submit a report to the transportation policy committees of each house of the Legislature that includes, but is not limited to, the following elements:

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

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

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

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

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

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

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

(k) An air district with a trip reduction regulation initially adopted prior to the federal Clean Air Act Amendments of 1990 shall be excluded from this section, as long as it continues to have a regulation that allows trip reduction as a method of compliance.

(l) A metropolitan planning organization shall not use federal planning funds in the implementation and enforcement of the commute benefit ordinance.

(m) As used in this section, the following terms have the following meanings:

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

(2) “Covered employee” means 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 adopted pursuant to this section operates.

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

Approved _____, 2011

Governor