

Introduced by Senator Glazer**(Coauthors: Senators Beall, Hancock, Hill, Leno, and Wolk)**

(Coauthors: Assembly Members Baker, Bonilla, Campos, Chiu, Chu, Dodd, Gordon, Levine, Mullin, Quirk, Mark Stone, Ting, and Wood)

February 17, 2016

An act to amend Section 65081 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1128, as introduced, Glazer. Commute benefit policies.

Existing law authorizes the Metropolitan Transportation Commission and the Bay Area Air Quality Management District to jointly adopt a commute benefit ordinance that requires covered employers operating within the common area of the 2 agencies with a specified number of covered employees to offer those employees certain commute benefits through a pilot program. Existing law requires that the ordinance specify certain matters, including any consequences for noncompliance, and imposes a specified reporting requirement. Existing law makes these provisions inoperative on January 1, 2017.

This bill would extend these provisions indefinitely, thereby establishing the pilot program permanently. The bill would also delete bicycle commuting as a pretax option under the program and instead would authorize a covered employer, at its discretion, to offer commuting by bicycling as an employer-paid benefit in addition to commuting via public transit or by vanpool. The bill would also delete the reporting requirement.

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 of the Government Code is
2 amended 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 with
6 local employers to adopt policies that encourage commuting by
7 means other than driving alone. To encourage this, the Legislature
8 hereby establishes a pilot program in that regard in the greater San
9 Francisco Bay Area.

10 (b) Notwithstanding Section 40717.9 of the Health and Safety
11 Code, the Bay Area Air Quality Management District and the
12 Metropolitan Transportation Commission with respect to the
13 common area within their respective jurisdictions may jointly adopt
14 a commute benefit ordinance that requires covered employers
15 operating within the common area of the district and commission
16 to offer all covered employees one of 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~~
25 ~~vanpool, or, in addition, and at the employer's discretion, by~~
26 ~~bicycle. The~~ subsidy shall be equal to either the monthly cost of
27 commuting via *public* transit or *by* vanpool, or seventy-five dollars
28 (\$75), whichever is lower. ~~This~~ *The seventy-five dollar (\$75)*
29 amount shall be adjusted annually consistent with the California
30 Consumer Price Index. *If the covered employer chooses to offer a*
31 *subsidy to offset the monthly cost of commuting by bicycle, the*
32 *subsidy shall be either the monthly cost of commuting by bicycle*
33 *or twenty dollars (\$20), whichever is lower.*

34 (3) Employer-provided transit: transportation furnished by the
35 covered employer at no cost, or low cost as determined by the
36 district or commission, to the covered employee in a vanpool or
37 bus, or similar multipassenger vehicle operated by or for the
38 employer.

1 (c) Nothing in this section shall prevent a covered employer
2 from offering a more generous commuter benefit that is otherwise
3 consistent with the requirements of the applicable commute benefit
4 ordinance. Nothing in this section shall require employees to
5 change their behavior.

6 (d) 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 district or commission. The district or commission may approve
13 an alternative if it determines that the alternative provides at least
14 the same benefit in terms of reducing single-occupant vehicle trips
15 as any of the options in subdivision (b). An employer that offers
16 an approved alternative to covered employees in a manner
17 otherwise consistent with this section is not required to offer one
18 of the options in subdivision (b).

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

22 (f) An employer that participates in or is represented by a
23 transportation management association that provides the employer’s
24 covered employees with any of the benefits in subdivision (b), or
25 an alternative benefit determined by the district or commission
26 pursuant to subdivision (d) to provide at least the same benefit in
27 terms of reducing single-occupant vehicle trips as any of the
28 options in subdivision (b), shall be deemed in compliance with the
29 regional ordinance, and the transportation management association
30 may act on behalf of those employers in that regard. The district
31 or commission shall communicate directly with the transportation
32 management association, rather than the participating employers,
33 to determine compliance with the ordinance.

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

- 1 (h) Nothing in this section shall limit or restrict the statutory or
- 2 regulatory authority of the commission or district.
- 3 ~~(i) On or before July 1, 2016, if the commission and district~~
- 4 ~~implement a commute benefit ordinance as provided under this~~
- 5 ~~section, the two agencies shall jointly submit a report to the~~
- 6 ~~transportation policy committees of each house of the Legislature~~
- 7 ~~that includes, but is not limited to, the following elements:~~
- 8 ~~(1) A description of the program, including enforcement~~
- 9 ~~procedures and any sanctions imposed.~~
- 10 ~~(2) Number of employers complying with the ordinance that~~
- 11 ~~did not previously offer a commute benefit consistent with those~~
- 12 ~~required by the ordinance.~~
- 13 ~~(3) Number of employees who stopped driving alone to work~~
- 14 ~~in order to take transit or a vanpool, or to commute by bicycle, as~~
- 15 ~~a result of the commute benefit ordinance.~~
- 16 ~~(4) Number of single-occupant vehicle trips reduced per month,~~
- 17 ~~week, or day as a result of the commute benefit ordinance.~~
- 18 ~~(5) Vehicle miles traveled (VMT) and greenhouse gas emission~~
- 19 ~~reductions associated with implementation of the commute benefit~~
- 20 ~~ordinance.~~
- 21 ~~(6) Greenhouse gas emission reductions associated with~~
- 22 ~~implementation of the commute benefit ordinance as a percentage~~
- 23 ~~of the region’s greenhouse gas emission target established by the~~
- 24 ~~State Air Resources Board.~~
- 25 ~~(j)~~
- 26 ~~(i) The commission shall not use federal planning funds in the~~
- 27 ~~implementation of the commute benefit ordinance.~~
- 28 ~~(k)~~
- 29 ~~(j) As used in this section, the following terms have the~~
- 30 ~~following meanings:~~
- 31 ~~(1) “Covered employer” means any employer for which an~~
- 32 ~~average of 50 or more employees per week perform work for~~
- 33 ~~compensation within the area where the ordinance adopted pursuant~~
- 34 ~~to this section operates. In determining the number of employees~~
- 35 ~~performing work for an employer during a given week, only~~
- 36 ~~employees performing work on a full-time basis shall be counted.~~
- 37 ~~(2) “Covered employee” means an employee who performed~~
- 38 ~~at least an average of 20 hours of work per week within the~~
- 39 ~~previous calendar month within the area where the ordinance~~
- 40 ~~adopted pursuant to this section operates.~~

1 (3) “District” means the Bay Area Air Quality Management
2 District.

3 (4) “Commission” means the Metropolitan Transportation
4 Commission.

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

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