



**SB-1339 Commute benefit policies.** (2011-2012)

**Senate Bill No. 1339**

**CHAPTER 871**

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

[ Approved by Governor September 30, 2012. Filed Secretary of State September 30, 2012. ]

LEGISLATIVE COUNSEL'S DIGEST

SB 1339, Yee. Commute benefit policies.

Existing law creates the Metropolitan Transportation Commission, with various transportation planning and programming responsibilities in the 9-county San Francisco Bay Area. Existing law creates the Bay Area Air Quality Management District, with various responsibilities relative to the reduction of air pollution in the area of its jurisdiction, which incorporates a specified portion of the jurisdiction of the Metropolitan Transportation Commission.

This bill would authorize 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. 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 make its provisions inoperative on January 1, 2017.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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. To encourage this, the Legislature hereby establishes a pilot program in that regard in the greater San Francisco Bay Area.

(b) Notwithstanding Section 40717.9 of the Health and Safety Code, the Bay Area Air Quality Management District and the Metropolitan Transportation Commission 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 district and commission 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 district or commission, 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. Nothing in this section shall require employees to change their behavior.

(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 district or commission. The district or commission 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 district or commission 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 district or commission 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) Nothing in this section shall limit or restrict the statutory or regulatory authority of the commission or district.

(i) On or before July 1, 2016, if the commission and district implement a commute benefit ordinance as provided under this section, the two agencies shall jointly 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 imposed.

(2) Number of employers complying 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.

(j) The commission shall not use federal planning funds in the implementation of the commute benefit

ordinance.

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

(1) "Covered employer" means any employer for which an average of 50 or more employees per week perform work for compensation within the area where the ordinance adopted pursuant to this section operates. 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.

(3) "District" means the Bay Area Air Quality Management District.

(4) "Commission" means the Metropolitan Transportation Commission.

(l) 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.