

**Introduced by Senator Yee**February 24, 2012

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 1339, as introduced, 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.  
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 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 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.

29 (3) Employer-provided transit: transportation furnished by the  
30 covered employer at no cost, or low cost as determined by the  
31 district or commission, to the covered employee in a vanpool or  
32 bus, or similar multipassenger vehicle operated by or for the  
33 employer.

34 (c) Nothing in this section shall prevent a covered employer  
35 from offering a more generous commuter benefit that is otherwise  
36 consistent with the requirements of the applicable commute benefit  
37 ordinance. Nothing in this section shall require employees to  
38 change their behavior.

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

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

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

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

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

38 (i) On or before July 1, 2016, if the commission and district  
39 implement a commute benefit ordinance as provided under this  
40 section, the two agencies shall jointly submit a report to the

1 transportation policy committees of each house of the Legislature  
2 that includes, but is not limited to, the following elements:  
3 (1) A description of the program, including enforcement  
4 procedures and any sanctions imposed.  
5 (2) Number of employers complying with the ordinance that  
6 did not previously offer a commute benefit consistent with those  
7 required by the ordinance.  
8 (3) Number of employees who stopped driving alone to work  
9 in order to take transit or a vanpool, or to commute by bicycle, as  
10 a result of the commute benefit ordinance.  
11 (4) Number of single-occupant vehicle trips reduced per month,  
12 week, or day as a result of the commute benefit ordinance.  
13 (5) Vehicle miles traveled (VMT) and greenhouse gas emission  
14 reductions associated with implementation of the commute benefit  
15 ordinance.  
16 (6) Greenhouse gas emission reductions associated with  
17 implementation of the commute benefit ordinance as a percentage  
18 of the region’s greenhouse gas emission target established by the  
19 State Air Resources Board.  
20 (j) The commission shall not use federal planning funds in the  
21 implementation of the commute benefit ordinance.  
22 (k) As used in this section, the following terms have the  
23 following meanings:  
24 (1) “Covered employer” means any employer for which an  
25 average of 50 or more employees per week perform work for  
26 compensation within the area where the ordinance adopted pursuant  
27 to this section operates. In determining the number of employees  
28 performing work for an employer during a given week, only  
29 employees performing work on a full-time basis shall be counted.  
30 (2) “Covered employee” means an employee who performed  
31 at least an average of 20 hours of work per week within the  
32 previous calendar month within the area where the ordinance  
33 adopted pursuant to this section operates.  
34 (3) “District” means the Bay Area Air Quality Management  
35 District.  
36 (4) “Commission” means the Metropolitan Transportation  
37 Commission.

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

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