

# Local Commuter Benefits Ordinance

*Expand the reach of the Bay Area Commuter Benefits Program by requiring employers with 10 to 49 employees to offer similar commuter benefits*



## The Impact

A commuter benefits ordinance supports the San Francisco Bay Area Commuter Benefits Program, which encourages clean transportation choices for employees, reduces greenhouse gas emissions and helps relieve traffic congestion during peak hours. By requiring more employers to offer benefits, cities can make alternative commute options accessible and attractive to more people, thus helping the entire community's transportation ecosystem.

Depending on the benefits offered, this program can also help employers save on corporate and/or payroll (FICA) taxes. It can help employees pay fewer transit, vanpool or bicycling costs. Employer-provided commuter benefits are also a cost-effective method to satisfy, recruit and retain employees.

## Description

In 2014, the Bay Area Air Quality Management District implemented a rule that requires all Bay Area employers with 50 or more employees in the region to register and offer commuter benefits to their employees. Employers have the choice of offering (1) a pre-tax benefit of up to \$270/month to pay for transit or vanpool expenses, (2) employer-paid benefits through a monthly subsidy for transit or vanpool (at least \$75/month), (3) employer-provided transportation such as a free company bus service or (4) some combination of other benefits such as telework and bicycling benefits.

A local ordinance can expand the benefits of the Bay Area program by requiring more businesses to comply. Many workers in San Mateo County are employed by businesses that have fewer than 50 employees in the Bay Area. A local ordinance can stipulate that employers in a city with more than 10 employees nationwide but fewer than 50 employees in the Bay Area must also offer commuter benefits. The ordinance can apply to many small businesses, as well as the few large national businesses with small branches in the area. It can define the enforcement mechanism, establish a reporting platform and designate staff to work with businesses to encourage proper compliance.

## Where It's Been Implemented

San Francisco has a local ordinance that requires employers with 20 to 49 employees to offer commuter benefits. The city's Department of the Environment has staff available to field questions and help businesses determine which benefit package works best for them. Although the city does not strictly enforce the ordinance or require yearly compliance reports from businesses, the department maintains this ordinance by checking up on businesses that have been flagged as noncompliant through whistleblower forms submitted on its website. The cities of Berkeley and Richmond have similar ordinances that require employers with more than 10 employees to comply.

## Key Drivers

By 2015, a year after its implementation, the Bay Area Commuter Benefits Ordinance saw 3,910 employers (out of an estimated 10,000 eligible employers) register online to confirm that they were offering commuter benefits. Through survey data, they estimated that 44,000 employees switched from driving alone to an alternative commute mode because of this program. The result was an estimated reduction of 35,778 tons of CO<sub>2</sub> emissions during the first year, equating to 2.7 percent of the total reductions needed to achieve the Bay Area's 2020 greenhouse gas reduction target.

With this program's success, there is opportunity to expand its reach within San Mateo County. In 2019, 67.8 percent of those employed in San Mateo County drove alone to work on a regular basis. The average passenger vehicle in the U.S. emits 4.60 metric tons of CO<sub>2</sub> a year; for perspective, about 5.6 acres of U.S. forest would be needed to remove that amount of CO<sub>2</sub> from the atmosphere. These emissions can be reduced by encouraging alternative commutes for more employees. In San Mateo County, 15 percent of employers have between 10 to 49 employees, accounting for 24 percent of all workers in the county. Thus, many employees in the county are not offered commuter benefits under the Bay Area program, inviting local action to expand its reach.

## Key Factors for Success

Coordination with the Bay Area Air Quality Management District and Metropolitan Transportation Commission to harmonize the implementation of the regional program and the local ordinance is crucial. Reporting guides, employer implementation guides and other resources can be adapted from the Bay Area program and 511.org. Coordination will ensure that employers report to the right agency.



## Key Obstacles

Businesses may push back on this additional regulation, believing that it creates an extra burden. However, the Bay Area program and San Francisco's ordinance show that compliance is relatively simple and cost-effective. In many cases, offering benefits like the pre-tax benefit saves the employer on payroll and corporate taxes. The San Francisco program has proven that there are no scalability issues for smaller businesses to implement such benefits. The local ordinance might not require yearly reports, making compliance with the ordinance a simple one-time action that shows employers the many positive effects of offering commuter benefits.

Proper enforcement is also an obstacle, as it will take considerable resources to track and police all employers. Instead, cities can operate similarly to San Francisco's Department of the Environment, using an online whistleblower form or a policy of enforcement upon complaint to determine which businesses to check up on. These outside reports are particularly useful because data on which employers should be required to comply with the ordinance might be difficult to collect.

## Timeline to Implementation

City councils will have to adopt an ordinance to implement this program, then notify all businesses in the city of the new requirements. Notification can be achieved with mailers and emails. To allow adequate time for outreach, a city may choose to have the ordinance go into effect one year after it is adopted.

## References and Resources

- [San Francisco Commuter Benefits Ordinance 2015-2016 Annual Report](#)
- [San Francisco Commuter Benefits Ordinance](#) (Environment Code Section 247)
- [San Francisco Commuter Benefits Website](#)
- [Bay Area Commuter Benefits Program website](#)
- [Bay Area Commuter Benefits Program Employer Guide](#)
- [Bay Area Commuter Benefits Program 2016 Report to the California Legislature](#)

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