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BAY AREA EMPLOYERS MUST OFFER COMMUTER BENEFITS BY SEPTEMBER 30

By Tyreen G. Torner

On March 26, 2014, the Metropolitan Transportation Commission and Bay Area Air Quality Management District (the “District”) announced the launch of the Bay Area Commuter Benefits Program, a joint pilot program that requires all employers with 50 or more full-time employees in the Bay Area to offer employees commuter benefits by September 30, 2014. The program is authorized by SB 1339, which Governor Jerry Brown signed in September 2012. It will be implemented on a pilot basis through the end of 2016.

Geographic Area

The District consists of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo and Santa Clara Counties, as well as the southern portion of Sonoma County and the southwestern portion of Solano County. Here’s a [District map](#). The following cities are included:

- San Mateo, Redwood City, Palo Alto, Cupertino, San Jose, Milpitas
- San Rafael, Napa, Petaluma, Santa Rosa, Sonoma, St. Helena, Fairfield
- Oakland, Berkeley, Richmond, San Leandro, Hayward, Union City, Fremont

- Vallejo, Martinez, Concord, Pleasant Hill, Walnut Creek, Dublin, Pleasanton, Livermore
- San Francisco (which has had the same requirements since 2009)

Covered Employers

Any public, private, or nonprofit entity that has an average of 50 or more full-time employees per week working within the geographic boundaries of the District.

Covered Employees

Employees who work at least 20 hours per week within the geographic boundaries of the District, excluding seasonal/temporary employees.

Required Benefits

By September 30, covered employers must offer one or more of the following commuter benefit options to their covered employees:

- Option 1: Pre-Tax Benefit - Allow employees to exclude up to \$130 of their transit or vanpooling expenses each month from taxable income.
- Option 2: Employer-Provided Subsidy - Provide a subsidy to reduce or cover employees’ monthly transit or vanpool costs, up to \$75 per month.

- Option 3: Employer-Provided Transit - Provide a free or low-cost transit service for employees, such as a bus, shuttle or vanpool service.
- Option 4: Alternative Commuter Benefit - Provide an alternative commuter benefit that is as effective in reducing single-occupancy commute trips as Options 1, 2 or 3.

Along with San Francisco's Family Friendly Workplace Ordinance (which took effect January 1, 2014) and Fair Chance Ordinance (effective August 13, 2014), this is one of several new laws affecting employers that operate in the Bay Area.

For more information about this Alert, please contact Tyreen Torner at 415.364.5540 or ttorner@foxrothschild.com, or any member of Fox Rothschild's Labor and Employment Department.



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