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Assemblymen McKeon, Kennedy and Assemblywoman Vainieri Huttie

SYNOPSIS

Requires certain employers to provide certain pre-tax transportation fringe benefits.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 17, 2018.

AN ACT concerning pre-tax transportation fringe benefits, and amending and supplementing P.L.1992, c.32.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1992, c.32 (C.27:26A-3) is amended to read as follows:

3. As used in this amendatory and supplementary act:

"Alternative means of commuting" means travel between a person's place of residence and place of employment or termini near those places, other than in a motor vehicle occupied by one

person. Alternative means of commuting include, but are not limited to, public transportation, car pools, van pools, bus pools, ferries, bicycling, telecommuting, and walking, which may be used in conjunction with such strategies as flextime, staggered work hours, compressed work weeks, and like measures.

"Clean Air Act" means the federal Clean Air Act, as amended by Pub.L.101-549 (42 U.S.C. s. 7401 et seq.) and as subsequently amended or supplemented.

"Commissioner" means the Commissioner of Transportation.

"Commuter transportation benefit" means the cost to employers of providing benefits to an employee for utilizing an alternative means of commuting and the cost of providing services and facilities which would encourage or facilitate use by employees of alternative means of commuting. The benefit shall include the costs of parking by employees at park-and-ride lots.

"Department" means the New Jersey Department of Transportation.

"Employee" [means an employee hired or employed by the employer and who reports to the employer's work location, as specified by regulation of the department] shall have the same meaning as provided in the "unemployment compensation law," (R.S.43:21-1 et seq.).

"Employer" [means any person, partnership, association, corporation, trust, legal representative or any organized group of persons which hires or employs employees and shall also include all public and quasi-public employers, including without limitation the United States and any of its governmental instrumentalities, the State of New Jersey and its instrumentalities and subdivisions, and all State and bi-State authorities, corporations, commissions, boards and like bodies] shall have the same meaning as provided in the "unemployment compensation law," (R.S.43:21-1 et seq.).

"Pre-tax transportation fringe benefit" means a pre-tax election transportation fringe benefit that provides commuter highway vehicle and transit benefits, consistent with the provisions and limits of section 132(f)(1) of the United States Internal Revenue Code of 1986 (26 U.S.C. s.132(f)(1)) at the maximum benefit levels allowable under federal law, to be deducted for those programs from an employee's gross income pursuant to section 132(f)(2) of the United States Internal Revenue Code of 1986 (26 U.S.C. s.132(f)(2)).

"Program" means the Travel Demand Management Program established pursuant to section 5 of P.L.1992, c.32 (C.27:26A-5) and continued pursuant to P.L.1996, c.121 (C.27:26A-4.1 et al.).

"Transportation management association" or "TMA" means a nonprofit corporation approved by the department as coordinating transportation services, including but not limited to public transportation, van pools, car pools, bicycling, and pedestrian modes, as well as strategies such as flex time, staggered work hours, and compressed work weeks, for corporations, employees, developers, individuals, and other groups.

"Travel demand management" or "TDM" means a system of actions whose purpose is to alleviate traffic-related problems through improved management of vehicle trip demand. These actions, which are primarily directed at commuter travel, are structured to reduce the dependence

on and use of single occupancy vehicles, or to alter the timing of travel to other, less congested time periods or both.

(cf: P.L.1996, c.121, s.5)

2. (New section) a. Every employer in the State of New Jersey that employs at least 20 persons shall offer to all of that employer's employees¹[, that are not covered by a collective bargaining agreement,]¹ the opportunity to utilize a pre-tax transportation fringe benefit.

b. ¹[If an employer employs persons covered by a collective bargaining agreement and employs less than 20 employees who are not covered by the collective bargaining agreement, the employer shall not be required to provide the opportunity to utilize a pre-tax transportation fringe benefit] Notwithstanding the provisions of subsection a. of this section, an employer shall not be required to offer the opportunity to utilize a pre-tax transportation fringe benefit to employees covered by a collective bargaining agreement until the expiration of any collective bargaining agreement covering those employees that is in effect on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill)¹.

c. If an employee is employed by the federal government and that employee is eligible for a benefit through the person's employment with the federal government for a transit benefit that is equal to or greater than a pre-tax transportation fringe benefit, then the federal government shall not be required to provide those employees the opportunity to utilize a pre-tax transportation fringe benefit.

3. (New section) Any employer found to be in violation of the requirement provided in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be liable for a civil penalty of not less than \$100 and not more than \$250 for a first violation. An employer shall have 90 days to offer a pre-tax transportation fringe benefit before the civil penalty is imposed. After 90 days, each additional 30 day period in which an employer fails to offer a pre-tax transportation fringe benefit shall constitute a subsequent violation and a civil penalty of \$250 shall be imposed for each subsequent violation. A civil penalty shall not be imposed on any individual employer more than once in any 30 day period. Any penalty incurred under this section may be recovered with costs, and, if applicable, interest charges, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" P.L.1999, c.274 (C.2A:58-10 et seq.).

The Commissioner of Labor and Workforce Development shall ensure compliance with the requirement provided in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) and may issue citations for violations as provided for in this section.

4. (New section) The New Jersey Transit Corporation shall conduct a public awareness campaign in conjunction with the New Jersey Turnpike Authority and the South Jersey

Transportation Authority, encouraging the public to contact employers about pre-tax transportation fringe benefits. The campaign shall include signs in public buildings and on roadways of the New Jersey Turnpike Authority and the South Jersey Transportation Authority, as well as the New Jersey Transit Corporation's stations and terminals, and may also include public service announcements on radio, television, and the websites and social media of the New Jersey Transit Corporation, New Jersey Turnpike Authority, and the South Jersey Transportation Authority.

5. (New section) The Commissioner of Labor and Workforce Development, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in consultation with TMAs, transit agencies in the State, and third-party transit benefit providers concerning the administration and enforcement of the pre-tax transportation fringe benefit requirements of P.L. , c. (C.) (pending before the Legislature as this bill) in a manner that is most compatible with current practices for providing pre-tax transportation fringe benefits.

6. This act shall take effect immediately but shall remain inoperative for 365 days following the date of enactment or upon the effective date of rules and regulations adopted pursuant to section 5 of this act, whichever occurs first.