

**Board Report**

File #: 2019-0448, **File Type:** Motion / Motion Response**Agenda Number:** 21.

**PLANNING AND PROGRAMMING COMMITTEE
JUNE 19, 2019****SUBJECT: TRANSPORTATION DEMAND MANAGEMENT PROGRAM UPDATE****ACTION: RECEIVE AND FILE****RECOMMENDATION**

RECEIVE AND FILE response to Motion 36 to report back in 90 days on Regional Commuter Tax Benefit Ordinance.

ISSUE

In October 2017 the Board approved Motion 36 directing staff to explore and implement a markedly expanded role for Metro as a leader in Transportation Demand Management (TDM) in Los Angeles County, including implementing a regional Commuter Tax Benefit Ordinance. On March 20, 2019 staff presented an update to members of the Planning Committee. In the Next Steps of that update, staff committed to providing a report back on the progress of the Commuter Tax Benefit Ordinance in 90 days. This Board Report represents that update.

DISCUSSION**Regional Commuter Tax Benefit Ordinance:**

In August 2018, Governor Jerry Brown signed AB2548 into law, authorizing Metro to write and implement a Countywide Commuter Tax Benefit Ordinance. Currently, employers may voluntarily allow their employees to use pre-tax dollars to pay for vanpool and transit costs each month, up to the maximum allowed by Federal law (currently \$265 per month for 2019). This ordinance would make the pre-tax option a requirement for all employers with 50-249 employees at a single worksite in Los Angeles County.

Per AB2548, any Commuter Tax Benefit Ordinance Metro writes or implements must include the following:

- How Metro will inform covered employers about the ordinance
- How compliance will be demonstrated
- The procedures for proposing, and the criteria that will be used to evaluate an alternative commuter benefit program
- Any consequences for noncompliance

If an ordinance is adopted, the State requires Metro to submit a report no later than January 1, 2022 that includes the following:

- A description of the program, including how the authority informed covered employers and employees of the ordinance, and any compliance issues.
- The number of employers complying with the ordinance that did not previously offer a commute benefit consistent with those required by the ordinance.
- The number of employees who stopped driving alone to work to instead take transit or a vanpool because of the commute benefit ordinance.
- The vehicle miles traveled, and greenhouse gas emissions reductions associated with implementation of the commute benefit ordinance.
- The greenhouse gas emissions reductions associated with implementation of the commute benefit ordinance.
- The greenhouse gas emissions reductions associated with the implementation of the commute benefit ordinance as a percentage of the region's greenhouse gas emissions target established by the State Air Resources Board.

Progress Update:

The ultimate goal of any Commuter Tax Benefit Ordinance is to decrease the number of drive alone trips in the region and increase the number of transit and vanpool trips. However, regulation alone does not change commuter behavior or reduce trips. Outreach, education and support are the three keys to reducing trips and changing commuters' behavior. Below are described 1) the outreach to inform and obtain feedback on the ordinance; 2) the outreach to assist businesses in understanding their transportation options and 3) compliance considerations and 4) a proposed timeline.

Ordinance Outreach: There are approximately 65,000 employers located in 88 cities in the County who would be notified to comply with the Commuter Benefits Ordinance. Feedback from the various stakeholders is essential to ensure Metro's ordinance has taken into consideration concerns or suggestions raised by cities and small businesses. To solicit relevant feedback, staff has developed an outreach plan and has taken/will take the following actions:

- Pre-legislation outreach
 - Staff reached out to Transportation Management Associations, cities and business organizations for comments before drafting the legislation.
- Survey area stakeholders to obtain feedback on the ordinance as well as concerns and suggestions:
 - Cities: A question about the Commuter Tax Benefit Ordinance was included in the Regional TDM survey in May 2019. A survey specific to the ordinance will be sent out in June 2019.
 - Association for Commuter Transportation (ACT): A presentation was given at the ACT California Regional Conference in Universal City in May 2019, which had approximately

- fifty medium and large employers in attendance.
- Employers: Survey 15,000 employers through Salesforce 2019-2020.
- Commuters: Commute Benefits will be included in a survey of 200,000 downtown commuters to be conducted by FASTLinkDTLA.
- Transportation Management Associations: TMA Focus Group in June 2019.

Transportation Options Outreach: This outreach plan is designed to give commuters, employers and local jurisdictions the information and support necessary to encourage behavior change among commuters.

- Staff developed an outreach program that will include the following:
 - Revise Metro Commute Services webpage with commuter tax benefit information and interest form
 - Outreach to the 1,300 employers in the Metro Shared Mobility and Business Pass Programs
 - Digital marketing surveys (Facebook, etc.)
 - Outreach to third party benefits providers to connect with employers
 - Partnerships with Chambers of Commerce, cities, local transit agencies, COGS, vanpool and mobility providers to help provide outreach and information to employers
 - Metro marketing campaign targeted to employers
 - Metro marketing campaign targeted to employees

Compliance: If the ordinance is adopted, Metro will be the only transit agency in the country that requires employers to ensure compliance to the Commuter Tax Benefit Ordinance on its own authority. All other transit agencies are partnered with another agency such as Air Quality Management Districts, Department of Labor and Department of Commerce, etc., to ensure compliance. Metro, as an agency, has not had an enforcement presence or mechanism in any TDM policies up to this point. Establishing an ordinance and ensuring successful compliance will require Metro to develop an enforcement strategy. A strategy will need to perform progressive enforcement efforts which include warning and violation issuance, potential grace period for an employer to remedy a violation, and consequences for non-compliance (fines, etc.). Staff is currently reviewing the following options:

1. Partner with an enforcement agency in the County - identify an agency in the county that currently has a mechanism to effectively enforce an ordinance and create a partnership.
2. Enforce the ordinance through Metro's Office of the Inspector General using a system similar to Metro's transit court system.
3. Work with the Office of the Inspector General to create an enforcement system unique to the Commuter Tax Benefit Ordinance.
4. Model a compliance program on New York City's ordinance and rely on employees to notify Metro via a website when their employer is not complying with the ordinance.

Staff strongly recommends at least a one-year period in which violations and penalties will not be issued for non-compliance.

Timeline for Commuter Benefits Ordinance Implementation

- June - December 2019
 - Extensive pre-ordinance outreach to employers and employees
 - Beta testing of website
- First Half of 2020
 - Ordinance passed by the Metro Board (target date January 2020)
 - Continue outreach
 - Ordinance goes into effect (target date June 2020)
 - Employers will be notified to comply
 - Continue outreach
- Year 2021
 - Metro will evaluate effectiveness of ordinance
 - Prepare data from Year One for report back to the State
- December 2021
 - Report back to the State as required in AB2548

Equity Platform

Metro outreach and coordination for the regional Commuter Benefit Ordinance has a unique opportunity to provide outreach and support directly to resource limited communities while also providing opportunities for Metro staff to discuss and answer questions about ongoing and planned initiatives in commuter benefits and congestion reduction programs with community members in the communities where they live and work.

DETERMINATION OF SAFETY IMPACT

There is no safety impact associated with the planning and administrative activities contemplated in this Board report.

FINANCIAL IMPACT

The resources and costs for the initiatives outlined in this report have been included in FY19 and FY20 approved budgets. If it is determined that Metro should be the enforcement agency, staff will provide to the board an estimate of additional costs and resources.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendations support Metro's Regional Transportation Demand Management Program and serve to implement the following Metro Vision 2028 Strategic Plan Goals:

- Goal 3.3: Genuine public and community engagement to achieve better mobility outcomes for the people of LA County.
- Goal 4.1: Metro will work with partners to build trust and make decisions that support the goals

of the Vision 2028 Plan.

- Goal 4.2: Metro will help drive mobility agendas, discussions and policies at the state, regional and national levels.

ALTERNATIVES CONSIDERED

The recommendations for further development included in this Board report could be deferred by the Board. However, that is not recommended as TDM outreach is a much-needed effort in Los Angeles County. In all cases, staff would endeavor to pursue next steps that are coordinated with existing or anticipated related initiatives, to maximize resource efficiency.

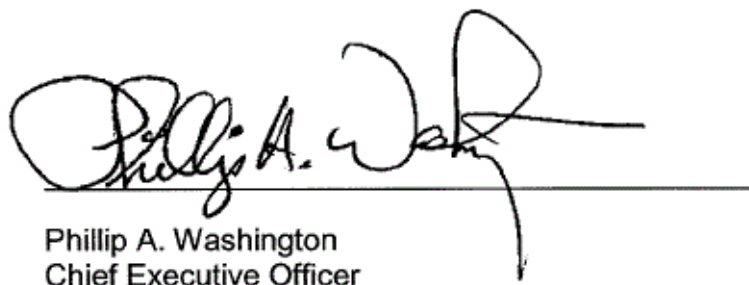
NEXT STEPS

Staff will aggressively pursue outreach efforts for all stakeholders and draft the ordinance concurrent with the outreach efforts.

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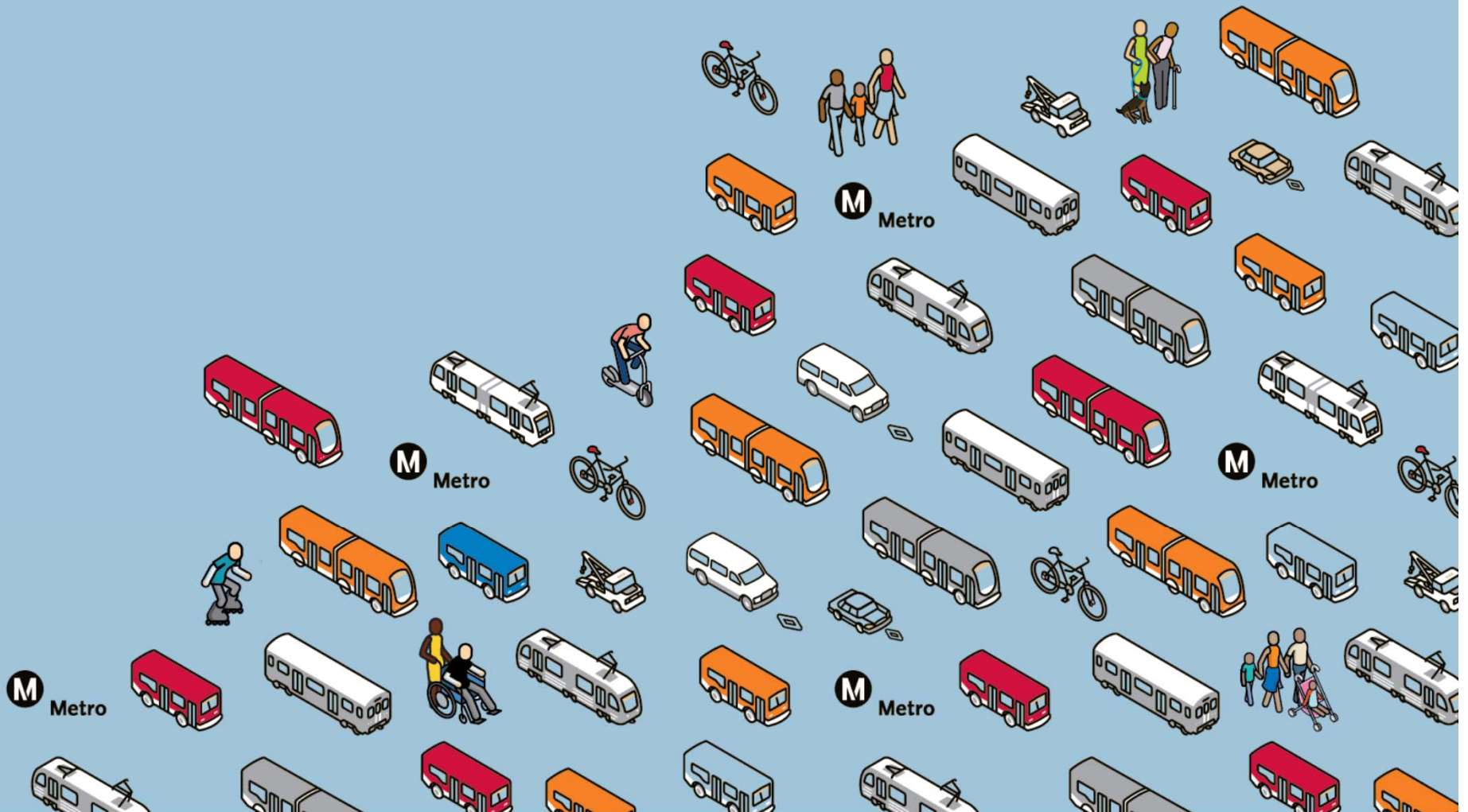
Phillip A. Washington
Chief Executive Officer

TDM Update: Commuter Tax Benefit Ordinance

Planning and Programming Committee

June 19, 2019

Legistar File #: 2019-0448



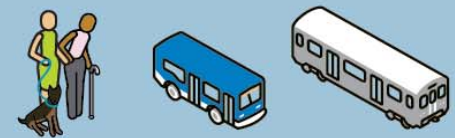
Countywide Commuter Tax Benefit Ordinance

- AB 2548 Grants Metro the Authority to Write and Implement a Commuter Tax Benefit Ordinance
 - Requires employers of 50-249 employees to offer employees the option to use pre-tax dollars to pay for transit and vanpool costs (\$265 per month under Federal Tax Law for 2019)
 - Currently, all employers may optionally offer this benefit
 - Employers must comply within 6 months of Ordinance adoption
 - Employers will have one full year of compliance before enforcement options are implemented
 - Employers complying with a City ordinance will be deemed in compliance



Metro's Obligations Under AB2548

- Any Commuter Tax Benefit Ordinance Metro writes must include:
 - How Metro will inform covered employers about the ordinance
 - How compliance will be demonstrated
 - The procedures for proposing, and the criteria that will be used to evaluate an alternative commuter benefit program
 - Any consequences for noncompliance
- Report to the State by January 2022
 - A description of the program including any compliance issues
 - The number of employers complying that did not previously offer a benefit
 - The number of employees who changed their commute because of the benefit
 - The reductions in vehicle miles traveled (VMT) and Greenhouse Gas Emissions (GHG)



Commuter Tax Benefit Ordinance Outreach Efforts

Pre-ordinance outreach:

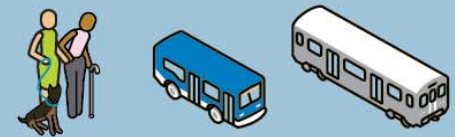
- Staff reached out to Transportation Management Associations, cities and business organizations for comments before drafting the legislation (AB2548).

Solicit Feedback from Area Stakeholders:

- Cities: All 88 cities in the county via focus groups and survey
- Employers: 15,000 employers through Sales Force
- Commuters: 200,000 Downtown commuters via FASTLINK DTLA
- Transportation Management Associations: Focus Group

Presentations:

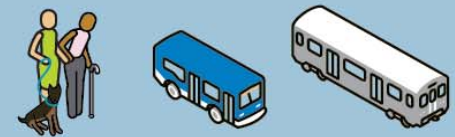
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 - Ordinance goes into effect (target date June 2020)
 - Employers will be notified to comply
 - Continue outreach
 - Violation penalties will not be issued for the first year
- Year 2021
 - In Year Two violation penalties will begin to be issued
 - Metro will evaluate effectiveness of ordinance
 - Prepare data from Year One for report back to the State
- December 2021
 - Report back to the State as required in AB2548

