Transit Benefits Ordinance

Increasing Transit Affordability with Pre-Tax Purchases for People Working in Seattle

Councilmember Mike O'Brien
Seattle City Council | District 6

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Proposed Transit Benefits Ordinance Summary

In the coming months, Councilmember O'Brien will be proposing a Transit Benefits Ordinance, meaning that Seattle employers would have to offer their employees the opportunity to use pre-tax income to purchase qualified transit benefits. Currently at least 6 jurisdictions around the country have transit benefits ordinances, including New York City, San Francisco, and Washington, DC. Councilmember O'Brien intends to build off the positive experiences in those cities while working through drafting, outreach, and implementation of the ordinance in Seattle.

What Is It?

The law is based on the Internal Revenue Code Section 132(f) that authorizes pre-tax commuter programs. Tax-free subsidy or pre-tax transit spending is capped at $255 per employee per month for buses, light rail, ferry, water taxi, and vanpool. **Employers save up to 9% on that spending in payroll taxes, and employees save between 25% and 40% on their commute expenses.**

To qualify for the tax savings, employers can offer transit benefits to all their W-2 recipients in three ways:

1. Employer-Paid Subsidy (providing an ORCA card or cash subsidy)
2. Employee-Paid Pre-Tax Fund (setting up the employee to use their own pre-tax income)
3. A combination of both

Why a Transit Benefits Ordinance?

Pre-Tax Transit Benefits are a generally cost-neutral (and often revenue-positive) way for businesses to reduce the burden of commuting for their employees. These benefits also encourage transit use, which helps reduce traffic congestion and greenhouse gas emissions. As the Berkeley Chamber of Commerce stated:

> "We feel that the TRACC Ordinance offers a rare opportunity to reduce taxes for both businesses and employees, encourages our employers to take advantage of transit, reduces air pollution, and shrinks our carbon footprint which we know is a major goal for the city and for its citizens…"

Enforcement

Other jurisdictions that have implemented a transit benefits ordinance have relied on complaints-based enforcement, and generally had a grace period of several months where enforcement was not punitive, but rather comprised of education and assistance in setting up the pre-tax funds. For example, New York City had a lengthy outreach period, and since January 2016 has only received 14 complaints for non-compliance.

In a recent survey of employers, when asked why they did not already offer a pre-tax transit benefit to their employees, some businesses responded that it would be too expensive or administratively burdensome. The grace period would allow for more outreach and assistance to help employers realize the cost savings of offering a pre-tax transit benefit. Others did not offer a pre-tax transit benefit because they provide other subsidies or transit passes, and did not see a need to provide a pre-tax benefit. The ordinance can allow for multiple ways to meet the requirement that still serve the underlying goals of congestion reduction and employee savings.

Proposed Timeline for Legislation

September 2018:	Initial outreach and draft ordinance shared
October – November 2018:	Continued outreach and engagement with businesses, proposed budget allocation for assisting business in setting up pre-tax transit benefits (for 2018)
December 2018:	Proposed Council vote on ordinance
July 2019:	Likely implementation date for ordinance (with continued grace period without fines)

Ongoing Questions

- `Implementation Date
- Employee Thresholds: Number of Employees and Defining "Employee"
- Resources Needed for Business Assistance