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**SENATE BILL 5855**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Fortunato and Hobbs

AN ACT Relating to commute trip reduction; amending RCW 70.94.521, 70.94.527, 70.94.531, 70.94.534, 70.94.541, and 70.94.544; creating a new section; and repealing RCW 35.58.250.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  It is the intent of the legislature that this act will increase efficiencies within the commute trip reduction program. It is further the intent of the legislature that this act will provide for more efficient use of existing transit resources by allowing innovative practices, such as private company transit vehicles, to pick up noncompany passengers for a fee.

**Sec.**  RCW 70.94.521 and 1997 c 250 s 1 are each amended to read as follows:

The legislature finds that automotive traffic in Washington's metropolitan areas is the major source of emissions of air contaminants. This air pollution causes significant harm to public health, causes damage to trees, plants, structures, and materials and degrades the quality of the environment.

Increasing automotive traffic is also aggravating traffic congestion in Washington's metropolitan areas. This traffic congestion imposes significant costs on Washington's businesses, governmental agencies, and individuals in terms of lost working hours and delays in the delivery of goods and services. Traffic congestion worsens automobile-related air pollution, increases the consumption of fuel, and degrades the habitability of many of Washington's cities and suburban areas. The capital and environmental costs of fully accommodating the existing and projected automobile traffic on roads and highways are prohibitive. Decreasing the demand for vehicle trips is significantly less costly and at least as effective in reducing traffic congestion and its impacts as constructing new transportation facilities such as roads and bridges, to accommodate increased traffic volumes.

The legislature also finds that increasing automotive transportation is a major factor in increasing consumption of gasoline and, thereby, increasing reliance on imported sources of petroleum. Moderating the growth in automotive travel is essential to stabilizing and reducing dependence on imported petroleum and improving the nation's energy security.

The legislature further finds that reducing the number of commute trips to work made via single-occupant cars and light trucks is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. Major employers have significant opportunities to encourage and facilitate reducing single-occupant vehicle commuting by employees. In addition, the legislature also recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption, and traffic congestion, and the contribution individual actions can make towards addressing these issues.

The intent of this chapter is to require ((~~local governments~~)) employers in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle commute trips. Such plans shall require major employers and employers at major worksites to implement programs to reduce single-occupant vehicle commuting by employees at major worksites. Local governments in counties experiencing significant but less severe automobile-related air pollution and traffic congestion may implement such plans. State agencies shall implement programs to reduce single-occupant vehicle commuting at all major worksites throughout the state.

**Sec.**  RCW 70.94.527 and 2006 c 329 s 2 are each amended to read as follows:

(1) Each county containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall ((~~adopt~~)) review and approve a commute trip reduction plan and ordinance ((~~for~~)) that is developed by major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also ((~~adopt~~)) review and approve a commute trip reduction plan and ordinance ((~~for~~)) that is developed by major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, designated pursuant to RCW 36.70A.110, shall ((~~adopt~~)) review and approve a commute trip reduction plan and ordinance ((~~for~~)) that is developed by major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and be consistent with the rules established by the department of transportation. The ((~~county, city, or town~~)) employer shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537.

(2) All other counties, cities, and towns may ((~~adopt~~)) review and ((~~implement~~)) approve a commute trip reduction plan ((~~consistent with department of transportation rules established under RCW 70.94.537~~)) proposed by major employers or employers at major worksites within their jurisdictions. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require ((~~municipalities~~)) employers other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the rules established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) a description of the requirements by the department of transportation for major public and private sector employers to implement commute trip reduction programs; (c) a commute trip reduction program for employees of the county, city, or town; and (d) means, consistent with rules established by the department of transportation, for determining base year values and progress toward meeting commute trip reduction plan goals. The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(5) The commute trip reduction plans ((~~adopted~~)) approved by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of ((~~counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans~~)) the department of transportation. Transit agencies shall work with ((~~counties, cities, and towns~~)) major employers as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. ((~~Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070.~~)) Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected ((~~regional transportation planning organization~~)) employer shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70.94.537. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) ((~~Regional transportation planning organizations~~)) Employers shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by ((~~[the]~~)) the commute trip reduction board as established under RCW 70.94.537. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each ((~~regional transportation planning organization~~)) major employer or employer at a major worksite implementing a regional commute trip reduction program shall, consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction board established under RCW 70.94.537. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The ((~~regional transportation planning organization~~)) employer shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) ((~~Each regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction board established under RCW 70.94.537. The report shall be due at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction board.~~

~~(9)~~)) Any waivers or modifications of the requirements of ((~~a~~)) an employer's commute trip reduction plan ((~~granted~~)) approved by a jurisdiction shall be submitted for review to the commute trip reduction board established under RCW 70.94.537. The commute trip reduction board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by ((~~a jurisdiction~~)) an employer but they may notify the ((~~jurisdiction~~)) employer of any comments or objections.

((~~(10)~~)) (9) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

((~~(11)~~)) (10) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

((~~(12)~~)) (11) If an affected urban growth area has not previously implemented a commute trip reduction program and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

**Sec.**  RCW 70.94.531 and 2013 c 26 s 1 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 as private employers.

(2) Not more than ninety days after the adoption of a ((~~jurisdiction's~~)) commute trip reduction ((~~plan~~)) program by the department of transportation, each major employer ((~~in that jurisdiction~~)) shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the local jurisdiction for review and approval. The program shall be implemented not more than ninety days after approval by the local jurisdiction.

(3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the ((~~jurisdiction~~)) department of transportation. Such measures may include but are not limited to:

(i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles and motorcycles;

(ii) Instituting or increasing parking charges for single-occupant vehicles;

(iii) Provision of commuter ride matching services to facilitate employee ride sharing for commute trips;

(iv) Provision of subsidies for transit fares;

(v) Provision of vans for van pools;

(vi) Provision of subsidies for car pooling or van pooling;

(vii) Permitting the use of the employer's vehicles for car pooling or van pooling;

(viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;

(ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;

(xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;

(xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed workweek schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high occupancy vehicles such as on-site day care facilities and emergency taxi services.

(4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

(5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)(d).

**Sec.**  RCW 70.94.534 and 2006 c 329 s 6 are each amended to read as follows:

(1) Each local jurisdiction ((~~implementing~~)) in which an employer has implemented a commute trip reduction plan under this chapter ((~~or as part of a plan or ordinance developed under RCW 36.70A.070~~)) shall review and approve each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. If the local jurisdiction approves the employer's commute trip reduction plan, the employer shall forward the plan to the department of transportation. The employer shall be notified by the local jurisdiction of its ((~~findings~~)) approval or lack of approval. If the local jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the local jurisdiction will notify the employer to work with the ((~~employer~~)) department of transportation to modify the program as necessary. The local jurisdiction shall complete review of each employer's initial commute trip reduction program within ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531;

(b) The employer has notified the ((~~jurisdiction~~)) department of transportation of its intent to substantially change or modify its program and has either received the approval of the ((~~jurisdiction~~)) department of transportation to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the ((~~jurisdiction~~)) department of transportation; and

(d) The employer is working collaboratively with ((~~its jurisdiction~~)) department of transportation to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) ((~~Each jurisdiction~~)) The department of transportation shall review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the ((~~jurisdiction~~)) department of transportation shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the ((~~jurisdiction~~)) department of transportation shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) ((~~Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter~~)) The department of transportation may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) ((~~Jurisdictions~~)) The department of transportation shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction board authorized under RCW 70.94.537.

**Sec.**  RCW 70.94.541 and 2009 c 427 s 1 are each amended to read as follows:

(1) The department of transportation shall provide staff support to the commute trip reduction board in carrying out the requirements of RCW 70.94.537.

(2) The department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, towns, state agencies, as defined in RCW 40.06.010, and other employers in developing and implementing commute trip reduction ((~~plans and~~)) programs. The technical assistance shall include: (a) Guidance in single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

((~~(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.~~))

**Sec.**  RCW 70.94.544 and 2006 c 329 s 9 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction board in carrying out the responsibilities of RCW 70.94.537, and the department of transportation, including the activities authorized under RCW 70.94.541(2), and to assist employers, regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction ((~~plans~~)) programs. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to employers, regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction ((~~plans~~)) programs. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction ((~~plans~~)) programs, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537.

NEW SECTION. **Sec.**  RCW 35.58.250 (Other local public passenger transportation service prohibited—Agreements—Purchase—Condemnation) and 1965 c 7 s 35.58.250 are each repealed.

**--- END ---**