

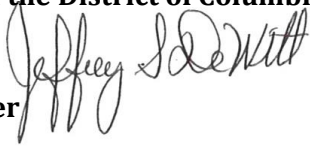
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 27, 2020

SUBJECT: Fiscal Impact Statement - Transportation Benefits Equity Amendment Act of 2020

REFERENCE: Bill 23-148, Draft Committee Print as shared with the Office of Revenue Analysis on January 24, 2020

Conclusion

Funds are not sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. The District Department of Transportation (DDOT) will need to hire a new employee to manage the new transportation benefits restrictions on covered employers¹ at a cost of \$100,000 in fiscal year 2020 and \$423,000 over the four-year financial plan period.

Background

The District requires covered employers in the District to provide transit benefit programs to its employees, including pre-tax election transportation fringe benefits, employer-paid benefit programs, or employer-provided transportation in a vanpool or bus.²

The bill further restricts the actions of covered employers related to transportation benefits for those employers who provide parking benefits³ to employees. If an employer offers a parking benefit to

¹ Covered employers are any employers with 20 or more employees.

² Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-151 et seq.).

³ Parking benefits are providing employees with parking at no or below-market costs.

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FIS: Bill 23-148, "Transportation Benefits Equity Amendment Act of 2020," Draft Committee Print as shared with the Office of Revenue Analysis on January 24, 2020

some or all of its employees, it must offer those employees a clean-air transportation fringe benefit, pay a clean-air compliance fee, or implement a transportation demand management plan.

The first option, clean-air transportation fringe benefits, is compensation for commuting in a commuter highway vehicle, transit passes, and qualified bicycle commuting reimbursements.⁴ These benefits must be equal to or greater than the market value⁵ of the parking benefit offered. Otherwise, the employer must pay employees the difference in additional compensation, increased health care coverage contribution, or both.

The bill sets the new clean air compliance fee, the second option, at \$100 per month for each employee offered a parking benefit.

In the final option, a covered employer must develop a transportation demand management plan that reduces year-over-year commuter trips by car⁶ by 10 percent until 25 percent or fewer of employees' commuter trips are made by car. These plans must be approved by DDOT. An employer who fails to submit a successful plan, after feedback from DDOT, must either offer the clean-air transportation fringe benefit or pay the clean air compliance fee. Employers who operate under an approved transportation demand management plan must annually submit data to DDOT on the commute mode share of its employees. The bill requires DDOT to give an employer 180 days to correct any issues if it is failing to meet its requirements. If the employer is still not compliant after 180 days, it must begin offering the clean-air transportation fringe benefit or paying the clean air compliance fee.

The bill requires covered employers to report within ninety days and every two years thereafter their total number of employees, the number offered and using a parking benefit, and the number offered and using a clean-air transportation fringe benefit. The Mayor should aggregate the data from these filings and annually report it to Council beginning on October 1, 2020. The Mayor should also indicate how many employers have not complied with the reporting requirement and what steps will be taken to achieve full compliance. The bill gives the Mayor authority to issue civil fines and penalties to enforce compliance.

Parking benefits do not include parking provided to employees who are required to use their personal vehicles to carry out their regular work duties. The bill's requirements also do not apply to a covered employer that owned the parking spaces prior to the bill's effective date or an existing lease for parking spaces through the end of that lease.⁷

⁴ These terms are defined in section 132 of the Internal Revenue Code, approved July 18, 1984 (98 Stat. 877; U.S.C. § 132(f)(5)).

⁵ The bill defines market value as the publicly-advertised price of parking for rent within one-quarter mile of the employer's location or an amount determined by DDOT.

⁶ Car trips includes those made in for-hire vehicles.

⁷ Lease extensions are covered by the bill's requirements.

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Financial Plan Impact

Funds are not sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. There are over 4,500 covered employers in the District,⁸ but there is no data available to determine how many of those offer parking benefits and would thus be subject to the bill's requirements. DDOT will need to determine how many employers offer parking benefits and ensure they comply with the bill's requirements. DDOT will have to review transportation demand management plans, collect clean air compliance fees, and collect and report data. DDOT requires an additional employee to manage these processes at a cost of \$100,000 in fiscal year 2020 and \$423,000 over the four-year financial plan period.

The bill provides employers with three options to mitigate or replace a parking benefit: offer a clean-air fringe benefit; pay a compliance fee; or develop a transportation demand management plan. The Office of Revenue Analysis (ORA) does not have sufficient data to determine how many employers offer parking benefits and the bill provides two options that don't require payments to the District, so ORA is not certifying any clean-air compliance fee revenue at this time. Any compliance fees received will be deposited into the District's Local Fund.

⁸ According to 2017 County Business Patterns data (All Sectors: County Business Patterns by Legal Form of Organization and Employment Size Class for U.S., States, and Selected Geographies) from the U.S. Census Bureau.