



# Tracing Trends in Commuter Benefits

A COMPREHENSIVE REFERENCE TO ELIGIBLE  
COMMUTING EXPENSES, TRANSIT ORDINANCES,  
AND EMERGING PAYMENT TECHNOLOGIES

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# TABLE OF Contents

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SECTION 1 .....	[03-05]
• WHAT EXACTLY ARE COMMUTER BENEFITS?	
SECTION 2 .....	[06-15]
• ORDINANCES AND COMPLIANCE	
• REGIONAL PERSPECTIVES	
SECTION 3 .....	[16-18]
• TIPS FOR EMPLOYEES: HOW TO USE THE BENIVERSAL CARD FOR COMMUTING EXPENSES	
SECTION 4 .....	[19-20]
• EMERGING TRANSIT PAYMENT PLATFORMS	
SOURCES.....	[22]



## SECTION ONE

# What Exactly Are Commuter Benefits?





# Commuter Benefits

## WHAT ARE COMMUTER BENEFITS?

A Commuter Benefit Plan (CBP) allows employees to set aside pre-tax money to pay for expenses related to their commute to and from work. Things that qualify as “transportation fringe benefits,” as defined by the IRS Section 132(f) as a Fringe Benefit, can be paid for through money in this fund that is contributed by you and/or your employer.

**COMMUTER BENEFITS CAN SAVE EMPLOYEES  
UP TO 30-40% ON MASS TRANSIT AND  
PARKING EXPENSES THROUGH PRE-TAX  
DEDUCTIONS, AND EMPLOYERS SAVE 7.65%  
IN PAYROLL TAX OBLIGATIONS.**

## HOW THE BENEFIT WORKS

There are two different accounts under the Commuter Benefits umbrella: A Mass Transit Account and a Parking Account.

Employees can sign up for and make elections to both account types or just one. They can also contribute the maximum monthly amount for each account as determined by the IRS each year. Employees may adjust their contribution,

join, or terminate plan participation at any time. The money left in the account may be carried over month to month and year to year if an employee continues to participate in the plan.

Depending on the account type, employees are able to pay for certain eligible commuting expenses.



## WHAT IS AN ELIGIBLE COMMUTING EXPENSE?

Qualified workplace commuting expenses must be for mass transit and/or parking expenses incurred when traveling to work from an employee's home or near their workplace

### QUALIFIED EXPENSES MASS TRANSIT ACCOUNT

- Trains/Subway/Amtrak
- Buses/Greyhound
- Water ferries
- Commuting pass or token (e.g., weekly bus pass)
- Fare card
- Vanpools\*

### QUALIFIED EXPENSES PARKING ACCOUNT

- Parking at/near work location (e.g., SpotHero)
- Parking at a remote location and taking another form of transportation (e.g., park-and-ride)

\*Includes UberX Share, Lyft Shared Rides, and Via when using the Beniversal® or eTRAC® Prepaid Mastercard®. Please visit [BenefitResource.com](https://www.benefitresource.com) for the full definition of a vanpool vehicle.

## WHAT IS NOT AN ELIGIBLE COMMUTING EXPENSE?

### INELIGIBLE EXPENSES UNDER A MASS TRANSIT ACCOUNT

The following are considered *private car expenses* and therefore not eligible to be paid with pre-tax funds:

- Gas
- Tolls
- E-ZPass
- Taxis
- Limos
- Regular Lyft & Uber rides

### INELIGIBLE EXPENSES UNDER A PARKING ACCOUNT

A parking expense at or near an employee's home is not considered an eligible expense.



## SECTION TWO

# Ordinances and Compliance





# Ordinances & Compliance



## WHAT IS AN ORDINANCE?

Transit ordinances require certain employers to offer “qualifying” commuter benefits programs. They are designed to increase the use of mass transit by making transit benefits more widely available to employees. There are typically significant fines for non-compliance that vary by state and/or region. Ordinances generally impact employers in multiple cities and employers with 20 or more employees where ordinances apply.

## HOW DO I MAKE SURE MY COMPANY IS COMPLIANT?

Compliance is typically possible through several means. Although, the easiest (and most universal) route to compliance is to offer pre-tax commuter benefits to employees. Offering a subsidy up to the pre-tax limit is also a generally accepted option. The specific compliance requirements vary based on your region.





## REGIONAL PERSPECTIVE:

# What's Happening in My Area?

## REGIONAL ORDINANCES & COMPLIANCE RULES

*There are currently ordinances in six areas:*

**1** CHICAGO, IL

**5** PHILADELPHIA, PA

**2** LOS ANGELES, CA

**6** SAN FRANCISCO BAY AREA

**3** STATE OF NEW JERSEY

**7** SEATTLE, WA

**4** NEW YORK CITY

**8** WASHINGTON D.C.

**GET A HEAD START ON TRANSIT BENEFITS  
WITH BRI'S COMMUTER PLAN**

**WHY BRI?**



# CHICAGO ORDINANCE

## WHEN DOES THE TRANSPORTATION BENEFITS PROGRAM ACT TAKE EFFECT?

This law goes into effect on January 1, 2024.

## WHO IS AFFECTED?

The ordinance applies to employers with 50 or more \*covered employees within a covered geographic area. Thirty-five different Illinois municipalities are subject to it. Employer locations must be within 1 mile of a fixed-route transit service. These employers are required to provide commuter benefits to eligible employees.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

To ensure compliance with the ordinance, covered employers should:

- Review the ordinance thoroughly to understand their obligations.
- Establish a commuter benefit program that meets the specified requirements.
- Communicate the program effectively to all eligible employees.
- Maintain accurate records of employee participation and contributions.
- Regularly assess and adjust the program to cater to changing employee needs.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines.

\*An employee is identified as any person who performs an average of at least 35 hours of work per week for compensation on a full-time basis.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in the Chicago area.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)

# LOS ANGELES ORDINANCE

## WHO IS AFFECTED?

Los Angeles has a number of initiatives aimed at reducing single-occupancy vehicle use. Employers with 250 or more employees are required to register a plan with the South Coast Air Quality Management District to reduce emissions. Additionally, an ordinance is being implemented which requires employers with 50 to 249 employees to offer a qualified pre-tax transportation benefit.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers with 250 or more employees can learn more regarding the specific forms, rules and guidelines they must follow from the South Coast Air Quality Management District website.

Employers with 50 to 249 employees are required to offer a qualified pre-tax transportation benefit to employees to ensure employees have the opportunity to use pre-tax earnings to purchase qualified transportation fringe benefits such as transit passes, qualified transit expenses, and vanpool expenses.

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

Penalties will vary based on the size of the employer, when filed and even the progress made towards reducing emissions. Employers with 250 or more must file with the South Coast Air Quality Management District. The Los Angeles County Metropolitan Authority is responsible for oversight of the ordinance affecting employers with 50 to 249 employees.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in Los Angeles.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)



# NEW JERSEY TRANSIT ORDINANCE

In March 2019, New Jersey became the first state to adopt a commuter benefit ordinance. This was a historic step in transit law and is expected to serve as an early model for state-wide adoption.

## WHO IS AFFECTED?

Every employer in the State of New Jersey that employs at least 20 people must offer all employees\* the opportunity to utilize a pre-tax transportation fringe benefit.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria must provide one of the following:

- *Pre-tax election transportation benefits*
- *Employer-paid transportation benefits*
- *Employer-provided transportation at no cost*

## WHEN IS THE ORDINANCE EFFECTIVE?

Enforcement went into effect on March 1, 2020. This is subject to change and is dependent upon the release of the final rules and regulations.

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

Employers found in violation of the ordinance will be required to pay an initial penalty fine between \$100 and \$250.

After the initial penalty, employers have 90 days to become compliant. Failure to do so will result in a second penalty fine of \$250. If a company is still found to be non-compliant, an additional \$250 penalty fine will be administered every 30 days until compliance is achieved.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines. BRI provides flexible and on-demand purchasing. There is nothing to order and distribute, and employees can make purchases based on their needs.

Visit the Commuter Resource Center at [BenefitResource.com](https://www.benefitresource.com) to learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in New Jersey.

\*An employee is identified as anyone hired or employed by the employer and who reports to the employer's work location. This mirrors the definition used in unemployment compensation law.



# NEW YORK CITY ORDINANCE

## WHO IS AFFECTED?

Employers with 20 or more full-time employees working in the City of New York (including the 5 boroughs).

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria are required to offer a qualified pre-tax transportation benefit to all full-time employees\*. The program must support all of the following transportation options:

- Eligible ferry and water taxi services
- Eligible vanpools/commuter bus services
- Access-A-Ride
- NYC Regional Mass Transit (MTA, LIRR, Amtrak, New Jersey Transit, Metro-North)

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

Any employers found in violation of the ordinance will be subject to an initial penalty fine of \$100 to \$250.

After the initial penalty, employers have 90 days to become compliant. Failure to do so will result in a second penalty fine of \$250. If a company is still found to be non-compliant after this, an additional \$250 penalty fine will be administered every 30 days until compliance is achieved.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines.

\*A full-time employee is defined as an employee working at least 30 hours per week.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in New York City.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)



# PHILADELPHIA ORDINANCE

## WHO IS AFFECTED?

Any business with employees in Philadelphia that employs at least 50 covered employees\*.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Covered employees must be offered one of the following commuter benefits:

- An election of a pre-tax payroll deduction for Mass Transit Expenses or Qualified Bicycle Expenses, as allowed under the Internal Revenue Code §132(f)(1)(D), and (f)(5)(F); or
- An employer-paid benefit where the covered employer supplies a Fare Instrument for a covered employee under Internal Revenue Code §132(f)(2); or
- Any combination of the two

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

Employers violating the ordinance will have 30 days to comply, followed by a written warning. Following the written warning, additional failure to comply will result in a penalty fine between \$150 to \$300 per day.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines.

\*Any employee working at least 30 hours a week must be offered the benefit. The ordinance does not apply to government entities, unpaid positions, or volunteers.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in Philadelphia.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)

# SAN FRANCISCO & BAY AREA ORDINANCES

## WHO IS AFFECTED?

The [San Francisco ordinance](#) affects any business with a location in the City of San Francisco with 20 or more employees nationwide. The [Bay Area ordinance](#) affects every employer with 50 or more employees across the nine county San Francisco Bay Area.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria must provide one of the following:

- *Pre-tax election transportation benefits*
- *Employer-paid transportation benefit or vanpool subsidy (or transit pass)*
- *Employer-provided transportation at low or no cost*

### IN THE BAY AREA, THERE IS A FOURTH OPTION:



Employers may offer an Alternative Commuter Benefit. The alternative options must be as effective as the other options in reducing single-occupant vehicle trips (and/or vehicle emissions). This can be accomplished by adding a Specialty Account. A Specialty Account allows employers to assist employees in paying for specific expenses. Their flexibility allows employers to put together a benefits plan that addresses the unique needs of their company and employees.

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

Within **San Francisco**, those who fail to comply are subject to the disciplinary steps outlined below until compliance is achieved:

1. *Warning - A written notice of violation is issued.*
2. *First Violation - \$100 fine levied 90 days after the initial written notice.*
3. *Second Violation - \$200 fine levied for the second violation.*
4. *Third Violation - \$500 for the third violation, up to a maximum of \$800.*

Additional information on compliance in San Francisco can be found within the [Commuter Benefits Ordinance Rules and Regulations](#).

Within the **Bay Area**, employers that fail to comply are also subject to corrective action, including financial penalties. The specifics can be found in the Commuter Benefits Program ([Regulation 14, Rule 1](#)).

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines. BRI provides widespread acceptance of our Commuter Plan. Since we own our own technology, our Commuter Program has higher auto-approval rates than other card programs



# SEATTLE TRANSIT ORDINANCE

## WHO IS AFFECTED?

Any business with employees in Seattle that employs at least 20 employees\* worldwide.

## WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria must do one of the following:

- Allow employees\* to make a pre-tax deduction for transit or vanpool expenses, up to the full amount allowed by federal law; or,
- Subsidize all or part of the purchase price of a transit pass.

## WHEN IS THE ORDINANCE EFFECTIVE?

January 1, 2021

## ARE THERE PENALTIES FOR NON-COMPLIANCE?

The city modeled enforcement after existing ordinances, offering a 90 grace period and then beginning punitive action if necessary. Details will be forthcoming, and updates can be found on [Seattle.gov](http://Seattle.gov) within the Commuter Benefits Ordinance section.

## HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines. The Commuter Plan features contactless payments that help create peace of mind. Compatible with Apple Pay®, Google Pay®, and Samsung Pay® for a safe, secure, and convenient payment method.

\*Any employee working at least 10 hours a week must be offered the benefit. The ordinance does not apply to government entities and tax-exempt organizations.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in Seattle.

Visit the Commuter Resource Center on [BenefitResource.com](http://BenefitResource.com)

Washington D.C. has committed to increase sustainability and reduce single-occupancy ridership. There are two ordinances affecting employers in DC: the **COMMUTER BENEFITS LAW** and the **PARKING CASHOUT LAW**.

# WASHINGTON D.C. ORDINANCE

## COMMUTER BENEFITS LAW

FORMALLY KNOWN AS THE SUSTAINABLE DC OMNIBUS AMENDMENT ACT

### WHO IS AFFECTED?

Every covered employer with 20 or more employees. This includes both full-time and part-time employees\* as well as non-profits.

### WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria must do one of the following:

- *Pre-tax election transportation benefits*
- *Employer-paid transportation benefit or*
- *Employer-provided transportation at no cost.*

### ARE THERE PENALTIES FOR NON-COMPLIANCE?

Employers that fail to comply with the ordinance will be subject to an initial penalty. Employers will be subject to a fine of \$100 for the first violation, \$200 for the second violation and \$500 for the third violation, up to a maximum of \$800.

This is pursuant to the Civil Infractions Act, DC Official Code § 2-1801.01 et seq.

### HOW DO EMPLOYERS OFFER A QUALIFYING PRE-TAX BENEFIT?

By partnering with a third-party administrator, like Benefit Resource, employers can make sure they are offering a compliant solution to employees per the ordinance guidelines. BRI provides an all-in-one-card-solution. All pre-tax funds are available through a single card that can be used for one-time or recurring purchases.

\*Each individual, employed by the employer, will count towards the 20-employee threshold, regardless of full-time or part-time status.



# WASHINGTON D.C. ORDINANCE

## PARKING CASHOUT LAW

FORMALLY KNOWN AS TRANSPORTATION BENEFITS EQUITY AMENDMENT ACT

### WHO IS AFFECTED?

Every covered employer with 20 or more employees who leases or offers parking to its employees at a free or subsidized rate.

### WHAT DO I NEED TO DO TO BE COMPLIANT?

Employers meeting the above criteria must do one of the following:

**OFFER A PARKING CASHOUT:** Employers must offer employees the opportunity to opt-out of the parking benefit and receive a benefit equal to or greater than the fair market cost of the parking benefit. This can be offered in the form of mass transit benefits, a bicycle commute benefit, a credit to health benefits, or other taxable compensation.

**DEVELOP A TRANSPORTATION DEMAND MANAGEMENT (TDM Plan):** Employers must

develop a plan (subject to approval by the District Department of Transportation) to reduce single occupancy vehicle commuting by 10% from the previous year until 25% or less of employees' commute by car.

**PAY A CLEAN AIR COMPLIANCE FEE:** Employers can elect to pay a compliance fee of \$100 per month, per employee offered parking benefits.

### ARE THERE PENALTIES FOR NON-COMPLIANCE?

Employers that choose to take no action will be subject to the Clean Air Compliance Fee of \$100 per month per employee offered parking benefits. All covered employers will be required to file reports with the District Department of Transportation. The specific reporting and frequency varies based on the options employers choose to comply. If offering a parking cashout or opting to pay the compliance fee, the first report is due January 15, 2023.

### HOW DO EMPLOYERS OFFER A PARKING CASHOUT BENEFIT?

By partnering with a third-party administrator like Benefit Resource, employers can make sure they are offering a compliant Parking Cashout Benefit. In exchange for opting-out of the parking benefit, employees can receive one (or a combination) of the following: *A subsidy for a pre-tax mass transit benefit, a bicycle commute benefits program, and/or a contribution to an FSA, HRA or HSA.*



#### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in Washington D.C.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)

## SECTION THREE

# How to Use the Beniversal® Card for Commuting Expenses





# Beniversal® Card for Commuting Expenses

## Swipe Your Beniversal Card at Time of Purchase

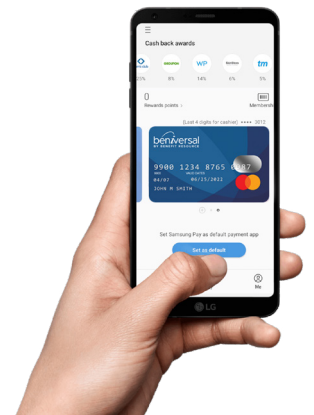
The Beniversal Card can be used at point-of-sale to pay for eligible mass transit and parking expenses. Simply swipe the card and you are on your way to savings.

## Use your Beniversal Card for Online Purchases

The Beniversal Card can be used to pay for online fares or parking purchases. When asked for a form of payment, enter the Beniversal Card number and other requested information.

## Link the Beniversal Card to a Recurring Expense

If you have a recurring pass or reloadable card program, register your Beniversal Card as your preferred payment method. When funds are needed or it is time to receive your new pass, funds will automatically be pulled from the Beniversal Card to fund your eligible expense.



### VISIT THE COMMUTER RESOURCE CENTER

Learn more about the transportation options and how the Beniversal® Prepaid Mastercard® can be used in your location.

Visit the Commuter Resource Center on [BenefitResource.com](https://www.benefitresource.com)

## SECTION FOUR

# Emerging Transit Payment Platforms





# Emerging Transit Payment Platforms



Transportation benefit programs have been available for over twenty years. First, the benefit was administered through cash reimbursement. Then employers started using transportation vouchers. Next came pass fulfillment, which was convenient and eliminated the need to find a ticket counter which accepted a voucher.

Finally, electronic card payments, like the eTRAC® Prepaid Mastercard® or Beniversal® Prepaid Mastercard®, arrived. Electronic card payments combined the flexibility of vouchers with the convenience

of pass programs and added the simplicity of administration for employers.

Card payments continue to be a dominant transit benefit option. However, the next transit payment evolution is right around the corner.

Transit systems across the country are making major changes in how they accept payment. They are focusing on increasing the speed of transactions, providing convenience through a universal payment system and reinforcing security.

## WHAT DO NEW PAYMENT STRATEGIES LOOK LIKE?

Transit systems across the country are using contactless payment technology powered by Near Field Communication, or NFC. The NFC setting on devices can be partnered with major payment networks such as Mastercard, leading to widespread acceptance. With the contactless systems, riders tap a chip-enabled card, mobile

device or wearable payment device to pay.

While traditional retailers have been slow to adopt contactless payments, the speed and convenience required for transportation is anticipated to drive use and adoption.

WHY BRI?

# Commuter Benefits



## BENIVERSAL® PREPAID MASTERCARD®



### ALL-IN-ONE CARD SOLUTION

All pre-tax funds are available through a single card that can be used for one-time or recurring purchases.



### WIDESPREAD ACCEPTANCE

Since we own our own technology, our Commuter Program has higher auto-approval rates than other card programs.



### CONTACTLESS PAYMENTS CREATE PEACE OF MIND

Compatible with Apple Pay®, Google Pay®, and Samsung Pay® for a safe, secure, and convenient payment method.



### CONVENIENCE THROUGH PARTNERSHIPS

Purchase UberX Pool, Lyft Shared Ride, & VIAWorks vanpool rides as well as parking spots through SpotHero.



### FLEXIBLE & ON-DEMAND PURCHASING

Nothing to order and distribute. Employees can make purchases based on their needs.

THE COMMUTING WORLD HAS CHANGED – LET YOUR PROGRAM CHANGE WITH IT. CONTACT YOUR REGIONAL REPRESENTATIVE TO REQUEST A QUOTE TODAY.

## ENROLLMENT & ACCOUNT MANAGEMENT

- ✓ Multiple web/electronic enrollment options with flexible funding arrangements
- ✓ Tools for employees to manage their accounts, including an online portal, mobile app, and email/text alerts
- ✓ Simply initiate payroll deductions and BRI will do the rest
- ✓ Easy plan management and on-demand reporting
- ✓ Comprehensive Open Enrollment materials and support

## NEED AN ALTERNATE COMMUTING PROGRAM?

A Specialty Account is an employer-funded post-tax account option available through BRI. You choose what the plan can reimburse and set limits regarding eligibility, funding, and maximum spend per plan participant.

- ✓ Create a generalized micro-commute/last-mile program
- ✓ Design a walk/bike to work incentive
- ✓ Reimburse for bicycle sharing programs

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# Sources

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- [NYC Consumer Affairs site](#) Commuter Benefits Law FAQs
- [Two More Cities to Require Employer-Provided Transit Benefits](#), SHRM
- [San Francisco Commuter Benefits Ordinance](#), SF Environment
- [NJ Becomes First State to Require Pre-Tax Transit Benefits](#), PrimePay blog
- [D.C. Department of Employment Services](#)
- [goDCgo Employer Services](#)

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## READY TO GET STARTED? CONTACT US TODAY!

Contact the BRI team member in your city today to schedule a free personal consultation.  
Email [info@benefitresource.com](mailto:info@benefitresource.com)



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