

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 963 (Delegate Lisanti, *et al.*)
Environment and Transportation

Maryland Transportation Authority - Video Tolls - Collection

This bill requires the Maryland Transportation Authority (MDTA) to orally notify the registered owner of a motor vehicle that has incurred a video toll of the toll due if (1) the video toll is more than 100% of the original toll amount or (2) the owner has outstanding video tolls in excess of \$250. The notification must involve person-to-person contact and may not include the use of voicemail or automated telephone notifications. The bill also (1) sets the civil penalty for failure to pay a video toll to 25% of the video toll amount (current regulations set the penalty at \$50); (2) repeals MDTA's authority to waive any portion of a video toll due or civil penalty assessed before it refers the debt to the Central Collection Unit (CCU), and (3) prohibits MDTA from referring any video toll to CCU.

Fiscal Summary

State Effect: MDTA nonbudgeted revenues decrease significantly, beginning in FY 2018, due to the reduced civil penalty for toll violations. Nonbudgeted expenditures increase by as much as \$22.3 million in FY 2018 and \$29.7 million annually thereafter for MDTA to provide oral notifications. Nonbudgeted expenditures increase further to the extent that (1) MDTA needs to hire MDTA police officers to provide in-person oral notifications and (2) the bill necessitates a change to the trust agreement with MDTA's bondholders and/or prompts a reduction in MDTA's bond ratings. General fund revenues decrease by \$2.1 million in FY 2018 and \$2.8 million in future years due to lost reversion revenue from CCU. Special fund revenues and expenditures for CCU decrease by \$1.7 million in FY 2018 and \$2.3 million in future years due to no longer receiving toll violation accounts (and associated fees) from MDTA.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	(\$2.1)	(\$2.8)	(\$2.8)	(\$2.8)	(\$2.8)
SF Revenue	(\$1.7)	(\$2.3)	(\$2.3)	(\$2.3)	(\$2.3)
NonBud Rev.	(-)	(-)	(-)	(-)	(-)
SF Expenditure	(\$1.7)	(\$2.3)	(\$2.3)	(\$2.3)	(\$2.3)
NonBud Exp.	\$22.3	\$29.7	\$29.7	\$29.7	\$29.7
Net Effect	(\$24.4)	(\$32.5)	(\$32.5)	(\$32.5)	(\$32.5)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State’s toll facilities and for financing new revenue-producing transportation projects. MDTA is governed by nine individuals appointed by the Governor, with the advice and consent of the Senate. The Secretary of Transportation serves as MDTA’s chairman. MDTA transportation facilities projects include:

- bridges, tunnels, and toll highways;
- vehicle parking facilities located in priority funding areas;
- other projects that MDTA authorizes to be acquired or constructed; and
- any authorized additions or improvements to MDTA projects.

MDTA has the authority to set tolls on transportation facilities projects under its supervision. Tolls must provide funds that, when combined with bond proceeds and other available revenues, are sufficient to pay maintenance, repair, and operating costs for transportation facilities projects that are not otherwise paid for; pay the interest and principal of any outstanding bond issues; create reasonable reserves for these purposes; and provide funds for the cost of replacements, renewals, and improvements. Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from the Transportation Trust Fund.

Prior to fixing or revising tolls on any part of any transportation facilities project, MDTA must provide the Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Ways and Means Committee information on the proposed toll charges, including the annual revenues generated by the toll charges, the proposed use of the revenues, and the proposed commuter discount rates.

Toll revenues are used by MDTA to meet its payment obligations to bondholders. MDTA currently has an Aa3 rating from Moody's Investor Service, AA- from Standard & Poors, and AA- from Fitch Ratings. These ratings are among the highest granted for tolling authorities. If toll revenues slip below expectations and tolls are not sufficient to meet the standards included in the trust agreement, MDTA increases tolls to avoid defaulting on the trust agreement to the bondholders and to sustain its bond ratings. Credit rating agencies cite a toll entity's independent ability to set toll rates, free of political consideration or approval from an outside source, as a key factor in achieving an optimal credit rating.

Video Tolling and Toll Violations at Maryland Transportation Authority Facilities

A motor vehicle incurs a video toll when the vehicle passes through an MDTA toll facility but does not pay the toll using cash or an E-ZPass. MDTA is required to send the registered owner of a motor vehicle that has incurred a video toll a notice of toll due. The owner then has 30 days to pay the toll amount. An owner who fails to pay the amount due is subject to a civil citation and civil penalty. The civil penalty must be set by MDTA through regulations and is currently \$50.

Chapter 122 of 2015 significantly altered the video tolling collection and toll violation process to allow more flexibility for motorists who incur a video toll, beginning in fiscal 2016. Among other things, Chapter 122 does not allow MDTA to assess a civil citation until 15 days after the toll violation occurs (a toll violation occurs 30 days after the notice of toll due is issued if a person does not pay the video toll by that date). Chapter 122 also authorizes MDTA to waive any portion of a video toll due or civil penalty assessed for a toll violation until the debt is referred to CCU.

Civil Citations and Penalties

A person who receives an MDTA citation for failure to pay a toll (a toll violation) must either pay the toll and penalty in the allotted timeframe or elect to go to court. If a person (1) fails to elect to stand trial or pay the prescribed video toll and civil penalty, (2) is adjudicated to be liable after trial, or (3) fails to appear at a trial after having elected to stand trial, MDTA may collect the video toll and the civil penalty by any means of collection as provided by law. In addition, MDTA may notify the Motor Vehicle Administration (MVA).

MVA must refuse or suspend the registration of any motor vehicle incurring an electronic toll violation if notified by (1) MDTA that a registered owner has been served with a citation and has failed to pay a toll and civil penalty for the toll violation or has failed to contest liability for the toll violation within the time or in the manner specified in the citation or (2) MDTA or the District Court that a person who elected to contest liability for

a toll violation failed to appear for trial or was found guilty of the toll violation and failed to pay the toll and penalty costs.

The registered owner of a motor vehicle is not liable for a toll violation civil penalty if the operator of the motor vehicle has been convicted of failure or refusal to pay a toll for the same violation.

Department of Budget and Management – Central Collection Unit

Generally, CCU is responsible for collecting any delinquent accounts or debts owed to the State. However, unless with the approval of the Secretary of Budget and Management, CCU is not responsible for and may not collect (1) taxes; (2) child support payments; (3) unemployment insurance contributions or overpayments; (4) fines; (5) court costs; (6) bond forfeitures; (7) monies owed due to default on loans made by the Department of Commerce or the Department of Housing and Community Development; or (8) specified insurance payments. Of these listed, CCU collects unemployment insurance overpayments, fines, court costs, and monies owed due to default on loans made by the Department of Housing and Community Development. CCU began collecting toll violations issued for non-State toll violators in June 2015 and for in-state violators in December 2015, as authorized by Chapter 122 of 2015.

CCU is authorized to use any actions available to it under State law to collect debts or claims. CCU is authorized to charge an administrative fee of up to 20% of the outstanding principal and interest on the debt referred to it for collection; the current fee is 17%. Debt payments are credited to the agency that refers the debt. The administrative fees are credited to the Central Collection Fund to pay for CCU's operating expenses, except that any balance in excess of 15% of the unit's actual operating expenses reverts to the general fund. CCU uses a variety of methods and resources to facilitate the collection of delinquent accounts, including automated and manual efforts, as well as a private collection agency.

Background: Prior to the enactment of Chapter 122 of 2015, a customer that did not pay his or her toll with cash or E-ZPass was sent a notice of toll due in the mail and given only 30 days to pay the video toll rate (which is currently set at 150% of the base toll rate). Any customer that did not pay within 30 days was immediately issued a citation, including the \$50 civil penalty.

MDTA advises that it set the civil penalty at \$50 in order to offset the transaction costs that are incurred for toll violators. These costs include generating license plate images, looking up vehicle owner information, issuing the citations, mailing multiple notices, processing court documents, and making court appearances.

State Revenues:

Maryland Transportation Authority – Civil Penalties

The precise impact of the bill on MDTA's nonbudgeted revenues depends on various unknown factors, including the number of video tolls and toll violators in any given year and how many of those violators go to court, choose to pay the civil penalty, or choose not to pay the civil penalty. For example, the bill's changes may encourage additional customers to pay when they otherwise would not have, due to the reduced civil penalty. Additionally, the State's video tolling process was significantly altered by Chapter 122 of 2015, so there is little data available upon which to base any out-year impact. Even so, MDTA advises that in fiscal 2016, it:

- processed a total of 6.1 million video tolls;
- assessed about \$92.0 million in civil penalties from 1.8 million toll violations; and
- referred 1.8 million transactions totaling \$104.3 million (includes video tolls and civil penalties) to CCU.

For illustrative purposes only, had the bill been in effect in fiscal 2016, instead of assessing \$92.0 million in civil penalties, MDTA would have only assessed \$3.2 million, resulting in a nonbudgeted revenue decrease of \$88.8 million. This effect would be spread over multiple years because MDTA collects only a portion of the penalty revenues in a given year; the remainder is referred to and collected by CCU over a longer period of time or remains uncollected. Thus, it is not possible to predict the precise impact the bill would have had in fiscal 2016. The revenue loss is expected to compound significantly in future years as more civil penalties are issued at 25% of the video toll instead of \$50.

Department of Budget and Management – Central Collection Unit

CCU estimates that, in the absence of the bill, beginning in fiscal 2018, it is likely to collect approximately \$5.1 million per year in fee revenues from toll violations referred to it from MDTA, based on its fiscal 2016 and 2017 collection rates. As noted above, CCU charges an administrative fee of 17% of the outstanding principal and interest on the debt referred to it for collection, and any balance in excess of 15% of the unit's actual operating expenses reverts to the general fund. CCU also estimates that, of this total, about \$2.8 million would revert to the general fund each year beginning in fiscal 2018. Therefore, general fund revenues decrease by an estimated \$2.1 million in fiscal 2018, due to the bill's October 1, 2017 effective date, and \$2.8 million in fiscal 2019 and future years. The special fund revenues that CCU would have retained from this total (\$1.7 million in fiscal 2018 and \$2.3 million in fiscal 2019 and future years) are largely offset by the special fund expenditure savings discussed below.

State Expenditures:

Maryland Transportation Authority

The bill requires MDTA to orally notify the registered owner of a motor vehicle that has incurred a video toll if the video toll is more than 100% of the original toll amount. Current regulations set the video toll at 150% of the original toll amount in all cases; therefore, this estimate assumes that MDTA must make an oral notification for every video toll it issues. Of course, MDTA could reduce its video toll amount to be equal to the original toll amount, therefore requiring oral notifications to be made less frequently; however, it is unclear whether doing so would fully account for the revenue loss of reducing the video toll and the significantly greater administrative burden on MDTA if reducing the toll encourages customers to use video tolling instead of E-ZPass or cash.

MDTA advises that it does not have sufficient staff to provide oral notifications for each video toll. Instead, MDTA plans to use its toll system contractor to call and speak with each person that incurs a video toll. MDTA's contractor estimates that, based on the 6.1 million video tolls in fiscal 2016, the additional services could cost as much as \$29.7 million per year. Accounting for the bill's October 1, 2017 effective date, MDTA nonbudgeted expenditures increase by as much \$22.3 million in fiscal 2018 and by as much as \$29.7 million annually thereafter.

MDTA nonbudgeted expenditures increase further to the extent that some customers cannot be reached by telephone, and MDTA is required to have MDTA police officers make in-person visits to fulfil the bill's oral notification requirements. While the visits may necessitate the hiring of additional police officers by MDTA, any such impact depends on how often the receiver of a video toll cannot be reached by phone. Thus, any impact associated with hiring additional officers cannot be reliably estimated at this time.

The bill's significant changes to the video tolling process and significant decrease in revenues may also require MDTA to alter its trust agreement with bondholders and/or prompt a reduction in its bond ratings. To the extent this occurs, nonbudgeted expenditures increase significantly in future years.

Department of Budget and Management – Central Collection Unit

Repealing MDTA's authority to refer civil penalties to CCU has a significant effect on CCU's operations. CCU estimates that the bill reduces the number of accounts it receives by about 50%. Therefore, CCU special fund expenditures decrease by an estimated \$1.7 million in fiscal 2018 (which accounts for the bill's October 1 effective date) and \$2.3 million annually thereafter as it modifies operations, as follows:

- CCU special fund expenditures for mailing of notices, skiptracing addresses, and outside collection vendor expenses decrease by as much as \$1.5 million in fiscal 2018 and \$2.0 million in future years. CCU's mailing budget accounts for about \$1.5 million of the impact, while outside collection vendor fees account for about \$500,000.
- CCU expanded its call center staff by eight contractual employees to field the increased volume of incoming calls, emails, and correspondence after it began to receive civil penalty referrals from MDTA. Due to CCU's reduced workload, these contractual positions are no longer required. Therefore, CCU special fund expenditures decrease by approximately \$220,000 in fiscal 2018, \$290,000 in fiscal 2019, \$300,000 in fiscal 2020, \$310,000 in fiscal 2021, and \$320,000 in fiscal 2022.

Judiciary – District Court

The significant decrease in the civil penalty for a toll violation may result in a decrease in the number of hearings for contested toll citations brought before the District Court each year; however, MDTA may make more court filings because it can no longer refer the civil penalty debt to CCU. It is, therefore, unclear whether the bill results in more, fewer, or a similar number of hearings for the District Court.

The Judiciary advises that, in fiscal 2016, there were approximately 36,919 toll violations in which a defendant requested a hearing. Each of the citations is handled manually; any increase or decrease in caseload correspondingly increases or decreases the amount of time the District Court must spend processing and hearing cases. Although any change in caseload cannot be reliably estimated, the bill is not expected to have a significant impact on the Judiciary's finances.

Additional Information

Prior Introductions: None.

Cross File: SB 139 (Senator Manno, *et al.*) - Finance.

Information Source(s): Maryland Department of Transportation; Department of Budget and Management; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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