

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 105 (Chair, Environment and Transportation Committee)(By
 Request - Departmental - Transportation)

Environment and Transportation

Finance

Maryland Transportation Authority Facilities - Video Tolls - Collection

This departmental bill prohibits the Central Collection Unit (CCU) from collecting any debt that is owed for unpaid video tolls and associated civil penalties from persons residing outside of the State. As a result, the bill indirectly allows the Maryland Transportation Authority (MDTA) to use a means of debt collection other than CCU to collect those unpaid tolls and associated penalties. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: General fund revenues increase by \$1,400 in FY 2019 and by \$17,000 annually thereafter due to reversions from CCU. CCU special fund revenues and net special fund expenditures decrease by \$18,800 in FY 2019 and by \$226,000 annually thereafter. Under one set of assumptions, MDTA nonbudgeted revenues decrease by \$110,800 in FY 2019, increase by at least \$18.5 million in FY 2020, and increase significantly in future fiscal years.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	\$1,400	\$17,000	\$17,000	\$17,000	\$17,000
SF Revenue	(\$18,800)	(\$226,000)	(\$226,000)	(\$226,000)	(\$226,000)
NonBud Rev.	(\$110,800)	\$18,470,000	-	-	-
SF Expenditure	(\$18,800)	(\$226,000)	(\$226,000)	(\$226,000)	(\$226,000)
Net Effect	(\$109,400)	\$18,487,000	-	-	-

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

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

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law:

Maryland Transportation Authority

Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities (for example, the Chesapeake Bay Bridge and Intercounty Connector) 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 chair.

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.

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

fails to elect to stand trial or pay the prescribed video toll and civil penalty, is adjudicated to be liable after trial, or 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: MDTA advises that historically, it has had difficulty collecting video tolls from out-of-state violators, in part because MDTA lacks the enforcement tools it has for

in-state drivers, such as the suspension and nonrenewal of vehicle registrations. Under current law, MDTA's only option is to refer the unpaid tolls of out-of-state drivers to CCU; however, doing so is rarely successful. As of January 18, 2019, MDTA estimates that about 576,000 out-of-state drivers owe MDTA outstanding tolls and civil penalties totaling \$102.2 million. CCU advises that, on average, it is only able to collect about \$1.3 million in outstanding tolls and civil penalties each year from out-of-state drivers.

MDTA advises that, under the bill, it plans to use an outside debt collection service to collect the out-of-state debt, similar to the service used by the Georgia State Road and Tollway Authority (SRTA), an independent authority created by the Georgia General Assembly to operate tolled transportation facilities within Georgia. In Georgia, the debt collection company buys the out-of-state toll debt from SRTA so that SRTA is made whole on the actual tolls, while the civil penalty revenue SRTA receives depends on the debt collection company's actual collection rate. Specifically, SRTA received an up-front payment equal to 100% of its outstanding toll debt and a small percentage (15%-25%) of any additional outstanding civil penalty debt collected by the company.

State Fiscal Effect:

Maryland Transportation Authority

CCU advises that, on average, it has been able to collect about \$1.3 million in outstanding toll and civil penalty debt from out-of-state drivers each year. Under the bill, this revenue is foregone (including an estimated \$110,833 in fiscal 2019 due to the bill's June 1, 2019 effective date). Even so, beginning in fiscal 2020, nonbudgeted revenues for MDTA increase to the extent that the bill results in the collection of toll and civil penalty debt that would not otherwise be collected. Although the precise increase cannot be estimated at this time because it depends on the contract MDTA negotiates with its chosen debt collection company, the total increase in nonbudgeted revenues is likely to be significant.

As previously discussed, MDTA is seeking a contract so that it is made whole up-front on its outstanding tolls (which amounts to about \$19.8 million of the total \$102.2 million that it is currently owed from more than 576,000 out-of-state drivers) and so that it receives a percentage of the associated civil penalties collected by the debt collection company. For purposes of this analysis, it is assumed the MDTA is able to negotiate such a contract in fiscal 2020. Therefore, after accounting for the foregone revenue that MDTA would otherwise receive from CCU, nonbudgeted revenues increase by at least \$18.5 million in that year. The debt collection company is likely to be more successful at collecting the out-of-state debt than CCU and, therefore, nonbudgeted revenues are likely to increase significantly in future fiscal years, despite the foregone revenue from CCU, with the total depending on the collection rate of the chosen debt collection company.

The Central Collection Unit and the General Fund

CCU recovers its operating expenses by assessing and collecting a 17% fee in addition to and for the debts that it is assigned. However, for out-of-state toll and civil penalty debt, CCU has historically collected, on average, less money than it spends in order to collect the debt, resulting in a net loss. Specifically, CCU collects about \$226,000 in out-of-state toll and civil penalty debt each year, while incurring about \$243,000 in administrative costs to do so, resulting in an average net loss of \$17,000 annually.

Under the bill, since CCU is no longer authorized to collect this type of debt (and as the debt is recalled by MDTA), CCU special fund revenues decrease by approximately \$226,000 annually beginning in fiscal 2020, and its special fund expenditures decrease by approximately \$243,000 annually beginning in that same year. Due to the bill's June 1, 2019 effective date, CCU special revenues decrease by \$18,833 in fiscal 2019, and CCU special fund expenditures decrease by \$20,250 in that same year.

Any special fund balance for CCU in excess of 15% of the unit's actual operating expenses reverts to the general fund. Therefore, the savings experienced by CCU as a result of no longer collecting toll and civil penalty debt increase CCU special fund expenditures and general fund revenues by \$1,417 in fiscal 2019 and by \$17,000 annually thereafter as the savings revert to the general fund.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Budget and Management; Georgia State Road and Tollway Authority; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2019
sb/lgc Third Reader - March 12, 2019

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Transportation Authority – Video Tolls – Collection

BILL NUMBER: HB 105

PREPARED BY: Maryland Department of Transportation / Maryland Transportation Authority
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill will not meaningfully impact small businesses.