

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 963

(Delegate Lisanti, *et al.*)

Environment and Transportation

Finance

Maryland Transportation Authority - Video Tolls - Collection

This bill authorizes the Maryland Transportation Authority (MDTA) to recall a delinquent account from the Central Collection Unit (CCU) if (1) the account exceeds \$300 in unpaid video tolls and associated civil penalties; (2) the video tolls in question were assessed within a 30-day period; and (3) mitigating factors exist with respect to the tolls and penalties, as determined by MDTA. The bill prohibits CCU from collecting any debt that is recalled by MDTA. MDTA must report to the Governor and the General Assembly by December 1, 2019, regarding its progress in improving access to its customer service operations, as specified.

The bill takes effect June 1, 2017, and terminates May 31, 2020.

Fiscal Summary

State Effect: MDTA nonbudgeted revenues (1) decrease to the extent that MDTA recalls and waives some or all of a customer's outstanding tolls and penalties from CCU and (2) increase to the extent that doing so allows the collection of toll and penalty revenues that would not have otherwise been collected. It is unclear whether this results in a net increase or decrease in nonbudgeted revenues over the three-year period the bill is in effect. Special fund revenues and expenditures for CCU decrease to the extent that accounts are recalled by MDTA; however, the total effect depends on the number and value of the accounts that are recalled and, therefore, cannot be reliably estimated. General fund revenues may decrease correspondingly due to lost reversion revenue from CCU. MDTA can prepare the required report with existing resources.

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.

CCU advises that approximately \$5.5 million of its current toll and penalty debt may be eligible for recall under the bill (*i.e.*, it comes from accounts for which tolls and penalties exceed \$300 and were assessed within a 30-day period). The debt is from 9,337 unique debtors with a total of 85,646 unique toll violations.

State Fiscal Effect: To the extent that the existing and additional future debt qualifies for recall under the bill, and MDTA uses the authority granted by the bill to recall the debt, the bill directly affects (1) MDTA nonbudgeted revenues; (2) CCU special fund revenues and expenditures; and (3) general fund revenues derived from reversions from CCU.

A summary of each effect is described below; however, the magnitude of each effect cannot be reliably estimated. The magnitude depends on numerous unknown factors, including (1) how many existing and future accounts involve or will involve mitigating factors that make them eligible for recall and (2) how much of the debt that is recalled and collected under the bill would have been collected by CCU absent the bill. In addition, because the bill takes effect June 1, 2017, and terminates May 31, 2020, the bill only has a fiscal impact from fiscal 2017 through 2020. The effect is likely to be significant in fiscal 2018 (because the bulk of eligible existing debt is likely to be reviewed and recalled in that year); the effect in other years is expected to be minimal.

- MDTA nonbudgeted revenues decrease to the extent that MDTA recalls and waives some or all of a customer's outstanding tolls and penalties from CCU but increase to the extent that doing so allows the collection of toll and penalty revenues that would not have otherwise been collected. It is unclear whether the overall effect is a net increase or decrease in revenues.
- CCU special fund revenues decrease to the extent that debt is recalled by MDTA and, therefore, not collected by CCU. Special fund expenditures decrease correspondingly as CCU spends less time and fewer of its resources attempting to collect the recalled debt.
- General fund revenues also decrease to the extent that debt is recalled and collected by MDTA instead of CCU, because CCU reverts a portion of the 17% fee it collects on outstanding debt back to the general fund. For the debt that is recalled and collected by MDTA, this general fund revenue is lost.

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

Fiscal Note History: First Reader - February 8, 2017
fn/mcr Third Reader - April 3, 2017
Revised - Amendment(s) - April 3, 2017

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