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FISCAL AND POLICY NOTE
First Reader

House Bill 582

(Delegate Hornberger, *et al.*)

Environment and Transportation

**Maryland Transportation Authority - Options for the Payment of Tolls and Civil
Penalties**

This bill requires the Maryland Transportation Authority (MDTA), to the greatest extent feasible, to provide a range of options to pay for toll transactions at toll collection facilities and any associated civil penalties for toll violations, as specified. The bill also requires MDTA to (1) under specified conditions, allow certain tolls and civil penalties to be paid through an installment payment plan; (2) recall certain delinquent accounts from the Central Collection Unit (CCU) if the person agrees to pay the unpaid tolls and civil penalties through an installment payment plan; and (3) waive the assessed civil penalties under specified circumstances. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: MDTA nonbudgeted expenditures increase by at least \$2.8 million in FY 2023 to implement the installment payment program; future years reflect inflation and ongoing costs. Although likely not feasible, to the extent MDTA must accept a range of payment options at toll facilities, nonbudgeted expenditures increase by hundreds of millions of dollars in the first year and by several million dollars annually thereafter, as discussed below. MDTA nonbudgeted revenues decrease significantly beginning in FY 2023, as discussed below. Special fund revenues and expenditures for CCU decrease to the extent that toll and civil penalty debt is recalled by MDTA. General fund revenues may decrease due to foregone reversions from CCU.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: To the greatest extent feasible, MDTA must provide to E-ZPass account holders and other users of transportation facilities a range of options to pay for toll transactions at toll collection facilities and any associated civil penalties for toll violations, including payment by cash, check, money order, and an electronic funds transfer through the use of (1) a credit or debit card; (2) an automated clearinghouse transfer; or (3) an online payment system, including a money transfer through a digital wallet payment platform or other mobile payment service.

MDTA must offer an installment plan agreement to a person alleged to be liable for payment of unpaid video tolls and any associated civil penalties that total at least \$300. An installment plan agreement must require the person to make monthly installment payments of 10% per month on the total amount of tolls and penalties owed. If a person fails to pay in accordance with such an agreement, MDTA may refer the unpaid tolls and penalties to CCU for collection.

MDTA must recall a delinquent account from CCU if (1) the account exceeds \$300 in unpaid video tolls and associated civil penalties and (2) the person associated with the account agrees to pay the tolls and penalties under an installment plan agreement.

If MDTA bills an E-ZPass account holder or a pay-by-plate account holder a sum total of “backlog toll charges” of \$300 or more, MDTA must offer the account holder an option to be billed for the backlog toll charges in monthly installment amounts of 10% per month on the total charges owed. A “backlog charge” is a toll for passage of a motor vehicle through a toll collection facility that is processed and billed to an E-ZPass account or pay-by-plate account holder more than 60 days after the toll transaction occurred due to COVID-19-related or other factors for which MDTA is responsible

Until MDTA refers the debt to CCU or after MDTA recalls a delinquent account from CCU, MDTA must waive any assessed civil penalty if (1) the notice of toll due (NOTD) for the video toll in question was sent to the person alleged to be liable more than 60 days after the video toll transaction and (2) MDTA is responsible for the delay in the timely processing of the video toll transaction due to COVID-19-related or other factors. Also, after MDTA has recalled a delinquent account from CCU, MDTA is authorized to waive any portion of the video toll due or civil penalty assessed.

MDTA must (1) allow persons to apply for the installment plan agreement and installment billing options on its website and (2) accept as sufficient an attestation from an applicant that the applicant qualifies for an installment plan agreement or installment billing option when approving eligibility for the option.

Current Law: Chapter 547 of 2018 authorized MDTA to recall a delinquent account from 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. Chapter 547 terminated May 31, 2021.

For information on MDTA's recent transition to all-electronic tolling (AET), methods that customers may use to pay tolls, and the assessment of civil penalties on unpaid tolls, please see the **Appendix – Maryland Transportation Authority and Tolling**.

State Fiscal Effect:

Toll Facility Payment Options

As discussed in the appendix, MDTA has recently transitioned to AET and no longer allows users to pay in the traditional manner at a toll booth. The bill requires MDTA, *to the greatest extent feasible*, to provide toll facility users with a range of options to pay for toll transactions *at toll collection facilities* (including the use of cash, check, money order, and electronic funds transfer). However, converting MDTA's toll facilities to be able to do so would increase nonbudgeted expenditures *significantly* – MDTA estimates that it would cost \$335.0 million to reestablish cash payments at all its toll facilities and approximately \$15.0 million annually in personnel expenses for toll collectors and supervisors, among other costs. Because of the significant expense, for purposes of this analysis, it is assumed that it is *not feasible* for MDTA to implement this provision and that MDTA does not do so.

Civil Penalty Waiver

Under the bill, MDTA must waive the civil penalties associated with an unpaid toll if (1) the NOTD for the video toll in question was sent to the person alleged to be liable more than 60 days after the video toll transaction and (2) MDTA is responsible for the delay in the timely processing of the video toll transaction due to COVID-19-related or other factors. MDTA advises that in response to the COVID-19 pandemic, it paused the processing and mailing of NOTDs. In October 2020, MDTA resumed the mailings, beginning with unpaid transactions for trips made from March through June 2020. The temporary pausing of these mailings, combined with MDTA's transition to its third-generation electronic tolling system, resulted in a significant backlog of NOTD mailings.

MDTA estimates that as many as 1.8 million civil penalty citations (totaling \$45.7 million in civil penalties) meet the bill's requirements for being waived and are, consequently, foregone under the bill. MDTA is likely to forego civil penalty revenues due to the waiver

requirement in future years as well; however, any such impact cannot be reliably estimated. While a precise estimate of lost revenue in any given year cannot be reliably estimated, as it depends on when and how much would have been collected absent the bill, MDTA's nonbudgeted revenues likely decrease by millions of dollars annually beginning in fiscal 2023.

Installment Payment Plan

Given the significant backlog of citations, MDTA cannot handle the implementation and operation of an installment payment plan system with existing resources. Thus, MDTA nonbudgeted expenditures increase by at least \$2.8 million in fiscal 2023. This estimate reflects the cost of hiring four contractual staff to implement the installment payment plan system. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes one-time programming costs for MDTA to upgrade its toll payment and tracking systems and website to ensure installment payments can be made using the various methods and in the manner required the bill.

Contractual Positions	4.0
Salaries and Fringe Benefits	\$251,597
Programming Costs	2,552,000
Operating Expenses	<u>30,432</u>
Minimum FY 2023 MDTA Expenditures	\$2,834,029

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The estimate also assumes that contractual staff are only required for three years to assist in clearing MDTA's backlog of citations. After this time, it is assumed that existing MDTA staff can likely handle administration of the installment payment plans.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Given the bill's July 1, 2022 effective date, MDTA advises that it may need to undergo an emergency procurement to ensure the installment payment plan system is operational by that date, which could further increase costs.

Central Collection Unit

The bill requires MDTA to recall delinquent toll and penalty debt from CCU under specified circumstances. In addition, CCU recovers its operating expenses by assessing and collecting a 17% fee in addition to and for the debts that it is assigned. Therefore, special

fund expenditures and revenues decrease for CCU as the debt is recalled, handled, and collected by MDTA; however, the magnitude of any such impact cannot be reliably estimated at this time.

Furthermore, any special fund balance for CCU in excess of 15% of the unit's actual operating expenses reverts to the general fund. Therefore, general fund revenues may decrease as additional debt is recalled by MDTA instead of being collected by CCU; however, the magnitude of any such impact cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 59 (Senator McCray) - Budget and Taxation.

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

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Appendix – Maryland Transportation Authority and Tolling

Maryland Transportation Authority – Generally

Since 1971, the Maryland Transportation Authority (MDTA) has been responsible for constructing, managing, operating, and improving the State’s toll facilities (for example, the Chesapeake Bay Bridge, the Francis Scott Key Bridge, and the Intercounty Connector (ICC)) 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.

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.

Transition to All-electronic Tolling and Video Tolling

During 2019 and 2020, MDTA converted all of its toll facilities to all-electronic tolling (AET). As a result, paying a toll in cash is no longer an option, and tolls for vehicles that use an MDTA tolling facility must be paid (1) through the use of an E-ZPass; (2) by having a pay-by-plate account with MDTA; (3) by having a commuter payment plan with MDTA (which allows users to prepurchase a limited number of tolls at a discounted rate); or (4) through a video toll, if the toll is not paid using one of the other methods. With respect to video tolls, MDTA is required to send the registered owner of a motor vehicle that has incurred such a video toll a notice of toll due (NOTD). 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 \$25.

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 NOTD 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 the Central Collections Unit within the Department of Budget and Management.

Toll Rates

MDTA generally has five different levels of toll rates charged at its various toll plazas for vehicles. There is a commuter plan rate, an E-ZPass rate for in-State motorists, an E-ZPass rate for out-of-State motorists, a pay-by-plate rate, and a video toll rate. For example, the toll rates for a two-axle vehicle at the Francis Scott Key Bridge (as well as the Harbor Tunnel and the Fort McHenry Tunnel) are as follows:

- \$1.40 for the commuter plan;
- \$3.00 for in-State E-ZPass;
- \$4.00 for out-of-State E-ZPass;
- \$4.00 for pay-by-plate; and
- \$6.00 for video.

All of MDTA's toll facilities generally use a similar toll structure (although the toll amount may vary); however, MDTA also offers E-ZPass users who live near the Thomas J. Hatem Memorial Bridge unlimited trips across the bridge for \$20 per year.

Recent Audit Findings

A recent audit of MDTA conducted by the Office of Legislative Audits (OLA) contained two findings, and the Joint Audit and Evaluation Committee held a hearing to discuss the findings with MDTA and OLA in December 2021.

First, OLA found that MDTA did not sufficiently determine the impact of certain issues with its electronic toll collection system on its customers and identify and correct related customer overbillings. Specifically, OLA noted that although MDTA investigated and corrected equipment errors during the implementation of its new AET tolling system, it did not always ensure all customers were refunded for those overbillings. OLA recommended that MDTA (1) review and evaluate significant tolling issues and (2) review previously identified electronic toll issues to determine the extent of customer overbillings and, in consultation with legal counsel, assess the practicality of related customer restitution.

Second, OLA found that MDTA did not perform periodic documented reviews of system access capabilities granted to State and contractual employees on its old electronic tolling and customer service system as required by the State's Information Technology Security Manual. The audit report recommended that MDTA perform periodic documented reviews of user access to its electronic tolling and customer service system, including the new systems once implemented, and take appropriate corrective action for any improper or unnecessary user access.

OLA noted that MDTA's response to the audit report indicated general agreement with the findings and recommendations. OLA's report and MDTA's response can be found on [OLA's website](#).