

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 335

(Delegate Foley, *et al.*)

Environment and Transportation

Budget and Taxation

Maryland Transportation Authority - E-ZPass - Disputes of Charges and Fees

This bill requires the Maryland Transportation Authority (MDTA) to require any person who applies to establish an E-ZPass account to agree to abide by terms and conditions established by MDTA for the electronic collection of tolls. The terms and conditions for E-ZPass accounts must allow a person to dispute any charge or fee for the use of a Maryland toll facility within at least one year after the charge or fee is posted to the person’s E-ZPass account. **The bill takes effect June 1, 2022, and terminates June 30, 2023.**

Fiscal Summary

State Effect: No effect is anticipated in FY 2022, as discussed below. Nonbudgeted expenditures increase by \$200,000 in FY 2023 only for one-time information technology and programming costs. Nonbudgeted revenues may decrease in FY 2023 only. The bill is not anticipated to materially affect Central Collection Unit operations or finances.

| (in dollars) | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
|--------------|---------|-----------|---------|---------|---------|
| NonBud Rev. | \$0 | (-) | \$0 | \$0 | \$0 |
| NonBud Exp. | \$0 | \$200,000 | \$0 | \$0 | \$0 |
| Net Effect | \$0 | (-) | \$0 | \$0 | \$0 |

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

Local Effect: The bill does not directly 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 (for example, the Chesapeake Bay Bridge and the Francis Scott Key Bridge) and for financing new revenue-producing transportation projects. For additional information on MDTA's operations, including the use of E-ZPass for all-electronic tolling, please see the **Appendix – Maryland Transportation Authority and Tolling**.

State Revenues: MDTA advises that the existing terms and conditions for E-ZPass accounts require a dispute to be made within 120 days from the date the transaction is posted to the account. To the extent that the bill's extension of this timeframe to one year results in additional disputes and refunds, nonbudgeted revenues decrease accordingly. However, any such impact cannot be reliably estimated without actual experience under the bill.

Even though the bill takes effect June 1, 2022, MDTA is likely unable to make the database and toll collection system changes necessary to implement the bill until fiscal 2023, as discussed below. Thus, any revenue impact is anticipated to occur in fiscal 2023 only (despite the bill's effective date and due to the bill's June 30, 2023 termination date).

State Expenditures: As noted above, MDTA currently requires an E-ZPass dispute to be made within 120 days from the date the transaction is posted to the account. As such, MDTA's current database and toll collection system retains detailed account information surrounding individual charges for only 120 days. In order to retain the information for a period of one year to ensure MDTA can properly investigate any disputed charge under the bill's extended timeframe, MDTA must upgrade its database and toll collection system.

Even though the bill takes effect June 1, 2022, MDTA is unlikely to be able to complete the necessary upgrades until fiscal 2023. Thus, nonbudgeted expenditures for MDTA increase by \$200,000 in fiscal 2023 only for the upgrades.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Budget and Management; Department of Legislative Services

Fiscal Note History:
fnu2/lgc

First Reader - February 27, 2022

Third Reader - March 18, 2022

Revised - Amendment(s) - March 18, 2022

Analysis by: Richard L. Duncan

Direct Inquiries to:

(410) 946-5510

(301) 970-5510

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. 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 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 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](#).