

**Department of Legislative Services**  
 Maryland General Assembly  
 2022 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 947 (Senator Hershey)  
 Budget and Taxation

**Transportation - Electronic Toll Collection Backlog - Fee Prohibition**

This emergency bill prohibits the Maryland Transportation Authority (MDTA) from charging an administrative fee or a civil penalty for failure to pay a video toll for which processing was paused or billing was deferred (due to COVID-19-related factors or factors for which MDTA is responsible) until 180 days after MDTA has eliminated the toll charge backlog. MDTA must reimburse the registered owner of a motor vehicle that incurred a video toll (for which processing was paused or billing was deferred due to COVID-19-related or other factors for which MDTA is responsible) the amount of any administrative fees or civil penalties paid by the registered owner. **The bill applies retroactively to any video toll incurred on or after March 5, 2022, for which processing was paused or billing was deferred, as specified. The bill terminates two years after the date it is enacted.**

**Fiscal Summary**

**State Effect:** Under one set of assumptions, nonbudgeted expenditures increase by *at least* \$21.4 million in FY 2022; nonbudgeted revenues decrease significantly in FY 2023. Special fund revenues and expenditures for the Central Collection Unit (CCU) and general fund revenues decrease, potentially significantly, in FY 2023.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	\$0	(-)	\$0	\$0	\$0
SF Revenue	\$0	(-)	\$0	\$0	\$0
NonBud Rev.	\$0	(-)	\$0	\$0	\$0
SF Expenditure	\$0	(-)	\$0	\$0	\$0
NonBud Exp.	\$21.4	\$0	\$0	\$0	\$0
Net Effect	(\$21.4)	(-)	\$0.0	\$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.

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## **Analysis**

**Current Law:** For information on MDTA's assessment of civil penalties on unpaid video tolls and MDTA's existing authority to waive unpaid tolls and civil penalties, please see the **Appendix – Maryland Transportation Authority and Tolling**.

Generally, CCU is responsible for collecting any delinquent accounts or debts owed to the State, including outstanding tolls and civil penalties. 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.

**State Fiscal Effect:** As noted above, for any video toll for which the processing was paused or the billing deferred due to COVID-19-related or other factors for which MDTA is responsible, the bill (1) prohibits MDTA from charging an administrative fee or civil penalty for a customer's failure to pay until 180 days after MDTA has eliminated the toll charge backlog and (2) requires MDTA to reimburse the registered owner of a motor vehicle any applicable administrative fees or civil penalties paid by the owner.

MDTA advises that in response to the COVID-19 pandemic, it paused the processing and mailing of notices of toll due (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. Additionally, as of February 28, 2022, MDTA has implemented an eight-month grace period for people with outstanding tolls and civil penalties. Under the customer assistance plan adopted by MDTA, all outstanding civil penalties are waived for motorists who pay their unpaid tolls by November 30, 2022. Additionally, MDTA plans to stop forwarding accounts to the Motor Vehicle Administration and CCU for collection activities during this period.

Given these circumstances, the bill's requirements (1) directly increase MDTA's nonbudgeted expenditures by *at least* \$21.4 million in fiscal 2022 for reimbursements; (2) significantly decrease MDTA's nonbudgeted revenues in fiscal 2023; and (3) decrease special fund revenues and expenditures for CCU and general fund revenues from reversions from CCU in fiscal 2023.

#### *Maryland Transportation Authority*

Nonbudgeted expenditures for MDTA increase by *at least* \$21.4 million in fiscal 2022 to reimburse affected customers for civil penalties that meet the bill's criteria for reimbursement. This estimate includes all civil penalty debt for both in-state and out-of-state residents and includes payments made due to customers' acceptances of liability, court findings of liability, CCU settlements, and MDTA settlements. The estimate does not include administrative costs that are likely incurred by MDTA to process the reimbursements (such as mailing costs), which could be significant. The estimate assumes that all reimbursements take place in fiscal 2022, due to the bill's emergency status; however, the actual timing of the reimbursements may vary significantly and may also occur in fiscal 2023 and/or 2024.

As noted above, the bill also prohibits MDTA from charging an administrative fee or civil penalty for a customer's failure to pay until 180 days after MDTA has eliminated the toll charge backlog. MDTA anticipates that the backlog will not be eliminated until October 2022; 180 days from that date is April 2023. This requirement does not affect MDTA's revenues until the end of the grace period (November 30, 2022), as discussed above. Thus, nonbudgeted revenues for MDTA decrease significantly from foregone civil penalties it would otherwise collect between December 2022 and April 2023 (fiscal 2023) in the absence of the bill. A reliable estimate cannot be made without actual experience under the bill, but the decrease in revenues is anticipated to total millions or tens of millions of dollars.

#### *Central Collection Unit*

As noted above, outstanding toll and penalty debt is referred to CCU for collection, and CCU charges an administrative fee on collected debt to pay for its operations. Therefore, special fund revenues and expenditures for CCU decrease, potentially significantly, as fewer and smaller debts are referred by MDTA in fiscal 2023 under the bill due to the absence of associated civil penalties on those debts. Additionally, general fund revenues decrease because CCU reverts a portion of the 17% fee it collects on outstanding debt back to the general fund. However, any such impact depends on how toll and civil penalty debt is referred to CCU under the bill and how much would be referred to CCU absent the bill and, therefore, cannot be reliably estimated at this time.

## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 1435 (Delegate Arentz, *et al.*) - Rules and Executive Nominations.

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

**Fiscal Note History:** First Reader - March 9, 2022  
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## **Appendix – Maryland Transportation Authority and Tolling**

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### *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](#).