



Agenda Item No. (7)

To: Finance-Auditing Committee/Committee of the Whole
Meeting of January 27, 2022

From: Jennifer Mennucci, Director of Budget and Electronic Revenue
Joseph M. Wire, Auditor-Controller
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Subject: **DISCUSSION REGARDING POSSIBLE CHANGES TO THE TOLL PENALTIES PROCESS**

Recommendation

This item is for discussion and staff direction only. If the Finance-Auditing Committee would like to implement a change, the request for authorization would occur at a future meeting.

Summary

The purpose of this report is to discuss proposed changes to the Golden Gate Bridge, Highway and Transportation District's (District) penalty structure to reduce the impact that toll evasion penalties have on some of the District's socio-economically disadvantaged customers. The District has examined a number of options looking for solutions that target that concern without undermining the District's mission to provide bridge and transit services to its community.

Throughout the tolling industry, and here in California, toll agencies address toll evasion penalties in a variety of ways. Even though all toll facilities in the Bay Area use a common process for processing toll payments and for relating to customers, they each can have different penalties as they relate to customers that do not pay their tolls. This flexibility allows the District to explore the possibility of direct and targeted approaches to lessen the potential burden of toll evasion penalties on its socio-economically disadvantaged customers.

Background on the Toll Program

The District implemented All Electronic Tolling (AET) on the Golden Gate Bridge on March 27, 2013, which has given the District the unique experience of operating tolling in an AET environment for nearly nine years. As described in more detail below, the District's AET program treats all Bridge users as customers because all users are sent a toll invoice if they do not pay their Bridge toll via a pre-paid FasTrak account, a post-paid Pay-As-You-Go account, or at a cash payment location. Specifically, since implementation of AET, the tolling program has operated as follows:

A customer's FasTrak transponder is read or a picture of the car's license plate is taken when they drive through the toll plaza. If the FasTrak transponder is read, the customer's FasTrak account is

charged the toll amount. If a FasTrak transponder does not register in the lane, a picture of the license plate on the car is taken. The picture is sent to the customer service center which tries to match it with a current account. If there is a match, then the payment type is taken which could be a pre-paid FasTrak account or Pay-As-You-Go account. If there is no account associated with the license plate, an invoice is generated and sent to the vehicle's registered owner at the vehicle registration address provided by the DMV. If there is an account associated with the license plate, but the account is closed or in a negative balance status, a toll invoice will also be sent. If the customer pays the invoice in a timely manner, then the toll payment is complete. There are no penalties or fees for timely payment of an invoice.

If the toll payment is not received, then a toll evasion violation notice (first notice) is sent to the registered owner of the vehicle. The first notice is the toll amount plus \$25. If that payment is not received within 45 days, a notice of delinquent toll evasion violation (second notice) is sent to the registered vehicle owner. The second notice is the toll amount plus the original \$25 penalty and an additional \$45 penalty (total of \$70 per toll crossing). If the registered owner pays the second notice within 15 days of mailing, the \$70 penalty is reduced to \$25.

Toll Penalties

Upon implementation of the AET program, the District instituted a customer service friendly policy that included first-time penalty waivers to invoice customers. These waivers were originally developed to accommodate potential motorist confusion during the initial transition to the new AET program. However, over time, the District decided to continue to include first-time penalty waivers as a regular part of its customer service program, and on a case-by-case basis grants additional waivers as well as waivers to non-invoice customers.

Customers can obtain waivers and/or refunds of toll evasion violation penalties as a result of contesting a toll evasion violation penalty. To contest a penalty, a customer may contact the regional customer service center (CSC) via phone, online, letter, or in person at the CSC. The District has included a FAQ on the District's website recently that directs customers to contact the CSC to contest a toll evasion violation penalty. The CSC then will undertake a review of the dispute and may offer one of a number of resolutions that waive, refund, or greatly reduce the penalty amounts depending upon the circumstances. For example, FasTrak customers who have incurred toll penalties, typically because of a problem with keeping their account current, may be offered a significantly reduced penalty of \$10 (versus \$70) for each unpaid toll, or in some cases may be granted a one-time waiver, a case-by-case waiver, and/or a refund. Note: A customer who has reached DMV hold status (after one invoice and two toll evasion violation notices have not been timely paid) may be offered waivers and/or refunds as described above, but must also pay the DMV-imposed fee to the State of \$3 dollars per toll transaction.

If any customer is unsatisfied with the result of their initial review, they have the option of appealing the decision via the Administrative Review process.

How Bridge Tolls and Penalties Are Utilized

Toll collection is fundamental to the District's ability to operate and manage the Bridge and to provide the public with reliable transportation services. Bridge tolls are the primary source of funding for the District's bridge and transit operations and are essential in leveraging Federal and

State funding for capital projects. Pre-pandemic, the District's bridge toll revenue was over \$145 million a year; of that amount, approximately \$10-\$11 million on average consisted of toll evasion violation penalties. Last fiscal year, the District's bridge toll revenue was approximately \$106 million. Pre-pandemic, approximately 50% of the District's annual toll revenues funded Bridge operations and maintenance. The other 50% are used to fund Bus and Ferry service connecting the North Bay and San Francisco, reducing congestion and vehicle trips across the Bridge. Given that toll revenues fund Bridge operations and maintenance first, a reduction in toll revenue would necessitate finding additional sources of revenue or a corresponding reduction in subsidy for the Bus and Ferry systems.

Through that lens, protecting the District's toll revenue is critical to the District's public service mission. Protecting toll revenue includes pursuing unpaid tolls via the statutory toll evasion violation process. During the nine years of the AET program, the collected penalty revenue has made up for unpaid tolls and also allowed the District to maintain its philosophy that those who timely pay their tolls should not be required to pay for those who do not. The discussion in this report regarding potential changes to the District's toll penalty structure attempts to maintain this philosophy while also providing relief to those in need.

Policy Change For Discussion to Address Economic Hardship

On July 24, 2020, the Board passed Resolution No. 2020-049 to denounce racism, and to affirm racial justice and equity. In support of that resolution, and with recent research demonstrating that toll penalties disproportionately impact economically disadvantaged non-white customers, District staff has developed some ideas for discussion to alleviate the potential impact of the District's current penalty structure. These changes are intended to specifically benefit Bridge users with an economic hardship who have incurred toll penalties. These options would be in addition to the current penalty waiver and reduction programs described above.

Specifically, District staff recommends developing an adjudication process targeted at customers with an economic hardship to allow those customers to have their penalties greatly reduced or eliminated. In order to benefit these customers, the program would be designed to be implemented and administered by a third party who already performs such similar services for other entities. Such a program could include payment plans for any remaining penalty or toll payments, where necessary.

With the Board's direction, staff will develop such a program, corresponding changes to the Master Ordinance and a projection of its potential financial implications, and bring it back to the Board for consideration and possible action.

Policy Change to Cap Maximum Toll Penalty Assessed for All Customers

Over 93% of tolls are paid before reaching a penalty status. Many of the remaining 7% are resolved without the customer paying the full toll penalty amounts assessed. Of the customers with toll penalties, approximately 88% had only 1 or 2 outstanding tolls, 10% had between 3-10 outstanding tolls, and 1% had between 11-20 outstanding tolls. Thus over 99% of customers assessed toll penalties have 20 or fewer outstanding tolls.

Given that the vast majority of customers pay on time or have a few violations, that leaves a small number of customers that, for a variety of reasons, face a large number of unpaid tolls and related penalties. Historically, the District's first-time waiver and penalty reduction programs, discussed above, have minimized the impact of those penalties on this small number of customers. Nonetheless, to assist in accomplishing the intentions of Board Resolution 2020-049, staff has developed a plan consisting of a tiered cap on the maximum amount of toll penalties assessed based on the number of toll violations to further reduce the impact of toll evasion penalties on all Bridge customers.

Because toll penalties have effectively deterred the nonpayment of tolls (or otherwise incentivized people to pay their tolls), the tiered cap proposal will allow the District to maintain that deterrent and also provide penalty relief. The proposed program would cap the maximum penalty amount based on the number of outstanding toll violations. For example, the District could cap penalties at as low as \$100 for 10 or fewer toll evasion violations, which would be equivalent to approximately 1.5 second notice penalties under the current penalty structure, explained above. Several higher dollar caps (\$500, \$1,000) could be set for higher numbers of violations outstanding to maintain the incentive to pay tolls on time (as the vast majority of all customers do) and/or to settle out any unpaid tolls before they accrue more and the penalty amount grows.

With Board direction, it is envisioned that staff would develop a proposed pilot program of tiered caps based on number of outstanding toll violations and recommend any necessary changes to the master ordinance for Board consideration at a future meeting. If approved, staff would implement the program and then would evaluate the program and report back to the Board late fall of 2023 in time for the Board's consideration of a future multi-year toll increase program.

Effect on Toll Revenues

The financial impact of either of the ideas discussed above is unknown at this time. Based on staff's assumptions of the programs' design and customer behavior, the fiscal impact likely would be a reduction in toll revenues by approximately \$2-\$4 million a year. Of course, changes in final program design could significantly increase or reduce that amount. Given that the District currently collects approximately \$10-\$11 million on average in penalties each year that it uses for its operations, this would reduce that revenue by 20-40%.

Fiscal Impact

The fiscal impact of any final program is unknown at this time. Given the current collection of toll penalties is approximately \$10-\$11 million on average a year, it is anticipated that the loss could potentially be \$2-\$4 million annually, a reduction in toll penalty revenue by 20-40%. If a program is implemented, the District would need to either reduce expenses or find other revenues to make up for the loss.