



House of Representatives

General Assembly

File No. 366

February Session, 2018

Substitute House Bill No. 5391

House of Representatives, April 10, 2018

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PREPARATION OF A TOLLING PROPOSAL AND SUPPORT FOR TRANSPORTATION INFRASTRUCTURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in this section and
2 sections 2 to 9, inclusive, of this act:

3 (1) "Electronic tolling system" means an electronic system for
4 recording, monitoring, collecting and paying for tolls on the highways
5 of this state, including, but not limited to, transponders or other
6 electronic transaction or payment technology devices or video toll
7 transaction systems;

8 (2) "Department" means the Department of Transportation; and

9 (3) "Toll operator" means a private entity that operates an electronic
10 tolling system, which duties may include, but need not be limited to,
11 collecting tolls, administrative charges and penalties.

12 Sec. 2. (NEW) (*Effective from passage*) (a) The Commissioner of
13 Transportation shall (1) conduct studies and satisfy other requirements
14 pursuant to the National Environmental Policy Act for the purposes of
15 developing electronic tolling systems on the highways of this state, (2)
16 procure a program manager and other consultants or experts as
17 needed to assist in the development of the electronic tolling systems,
18 and (3) prepare a tolling proposal that (A) implements electronic
19 tolling systems on Interstate 95, Interstate 91, Interstate 84, the Wilbur
20 Cross Parkway and the Merritt Parkway, (B) identifies the specific
21 locations where the proposed tolls may be charged, the toll amounts
22 that may be charged, including the use of value pricing and discounts,
23 if any, and the time periods for peak and off-peak travel, and (C)
24 estimates the capital and operating costs associated with the electronic
25 tolling systems.

26 (b) (1) The commissioner shall file the tolling proposal with the
27 clerks of the House of Representatives and the Senate. If the tolling
28 proposal is filed when the General Assembly is in session, not later
29 than five days after receiving the tolling proposal, the clerks of the
30 House of Representatives and the Senate shall refer the tolling
31 proposal to the joint standing committee of the General Assembly
32 having cognizance of matters relating to transportation. If the tolling
33 proposal is filed when the General Assembly is not in session, the
34 clerks of the House of Representatives and the Senate shall refer the
35 tolling proposal to the joint standing committee of the General
36 Assembly having cognizance of matters relating to transportation not
37 later than five days after the first day of the next regular session. The
38 committee shall hold a public hearing regarding the tolling proposal
39 not later than ten days after such referral. Not later than five days after
40 the hearing, the committee shall (A) hold a roll-call vote to approve or
41 reject the tolling proposal, and (B) forward the tolling proposal and a
42 record of the committee's vote to the General Assembly.

43 (2) Not later than thirty days after the tolling proposal is forwarded
44 to the General Assembly, the General Assembly may approve or reject
45 the tolling proposal. The tolling proposal shall be approved in whole

46 by a majority vote of each house or rejected by a majority vote in either
47 house. If both houses fail to vote during such thirty-day period, the
48 tolling proposal shall be deemed approved by the General Assembly.
49 Such thirty-day period shall not begin or expire unless the General
50 Assembly is in regular session. If the regular session adjourns prior to
51 such thirtieth day and the tolling proposal has not been acted upon,
52 the tolling proposal shall be deemed filed on the first day of the next
53 regular session.

54 (c) If the tolling proposal is rejected in accordance with the
55 provisions of subsection (b) of this section, the commissioner may
56 revise the tolling proposal. Any such revised tolling proposal shall be
57 submitted to the clerks of the House of Representatives and the Senate
58 and subject to a public hearing and approval or rejection by the
59 General Assembly in the same manner as described in subsection (b) of
60 this section.

61 (d) If the tolling proposal is approved or deemed approved by the
62 General Assembly, the commissioner shall submit the tolling proposal
63 to the Federal Highway Administration. In no event shall the
64 commissioner submit a tolling proposal to the Federal Highway
65 Administration unless the tolling proposal is approved or deemed
66 approved by the General Assembly.

67 Sec. 3. (NEW) (*Effective from passage*) (a) The provisions of this
68 section shall not be effective unless a tolling proposal to implement
69 electronic tolling systems is approved or deemed approved by the
70 General Assembly pursuant to section 2 of this act.

71 (b) The department may construct, maintain and operate electronic
72 tolling systems. The department may operate such electronic tolling
73 systems or contract with a toll operator to operate such systems. To
74 carry out its duties and responsibilities under this section and sections
75 4 to 9, inclusive, of this act, and any regulations adopted under section
76 8 of this act, the department may enter into tolling agreements with the
77 Federal Highway Administration and coordination agreements,
78 intergovernmental agreements or other implementation agreements

79 with any other federal, state or municipal entity or agency.

80 (c) The department may retain and expend funds for technical,
81 traffic, revenue, financial, legal and other consultants and experts to
82 assist in the development and implementation of electronic tolling
83 systems.

84 (d) The department may procure, retain and expend funds for toll
85 operators, vendors, suppliers, designers, engineers, software
86 designers, installers, contractors, maintenance personnel, back-office
87 and customer service personnel, collections, enforcement and for other
88 equipment, materials, personnel and services in order to assist in the
89 development and implementation of electronic tolling systems.

90 (e) (1) The department and the Department of Motor Vehicles may
91 enter into reciprocal agreements with other states, jurisdictions and
92 operators of toll facilities in other states that will enable said
93 departments to obtain and share with said departments and any toll
94 operator information regarding an out-of-state registered owner of a
95 vehicle that has used a tolled highway, including the make of the
96 vehicle, the vehicle's license plate and the name and address of the
97 registered owner of the vehicle.

98 (2) The department and the Department of Motor Vehicles may
99 enter into, or cause the toll operator on behalf of such departments to
100 enter into, reciprocal agreements with other states, jurisdictions and
101 operators of toll facilities in other states allowing for additional
102 enforcement mechanisms for the efficient collection of tolls incurred by
103 residents of states other than this state.

104 (3) The department and the Department of Emergency Services and
105 Public Protection may enter into an agreement with each other for the
106 provision of law enforcement assistance by the state police on tolled
107 highways that are not otherwise provided by the state police on state
108 roads and highways. All law enforcement officers of the state and any
109 political subdivision of the state shall have the same powers and
110 jurisdiction within the limits of a tolled highway as such officers have

111 in their respective areas of jurisdiction, including the roads and
112 highways of this state.

113 Sec. 4. (NEW) (*Effective from passage*) (a) The provisions of this
114 section shall not be effective unless a tolling proposal to implement
115 electronic tolling systems is approved or deemed approved by the
116 General Assembly pursuant to section 2 of this act.

117 (b) The department may charge, collect, retain and fix the amount of
118 all tolls for transit over or use of such highways, or portions thereof, as
119 may be determined by the department. The department may retain
120 and employ such assistance as may be necessary for the collection
121 thereof. Toll amounts shall be fixed and changed by the department, so
122 as to provide, at a minimum, funding that is sufficient to: (1) Pay costs
123 related to tolled highways in this state, including, but not limited to,
124 the cost of owning, maintaining, repairing, reconstructing, improving,
125 rehabilitating, using, administering, controlling and operating such
126 highways; (2) pay the principal of, redemption premium, if any, and
127 interest on notes or bonds relating to tolled highways, as such
128 principal, premium or interest become due and payable; and (3) create
129 and maintain reserves established for any of the department's highway
130 and bridge responsibilities under titles 13a and 13b of the general
131 statutes for the operation and maintenance of tolled highways. Such
132 sufficiency of funding may take into account the availability of funds
133 from other sources.

134 (c) The department shall provide advance notice of the tolls that will
135 be charged and the option for payment to motor vehicle operators
136 before such operators enter a tolled highway, or portion thereof.

137 (d) Tolls established by the department under this section shall not
138 be subject to supervision or regulation, except as otherwise provided
139 by law, by any other commission, board, bureau, authority or agency
140 of this state, or by any political subdivision of the state.

141 (e) All revenues received by the department from tolls shall be
142 deposited into the Special Transportation Fund, established under

143 section 13b-68 of the general statutes, and shall not be commingled
144 with other funds and revenues. Such revenues shall be expended only
145 for the purposes and subject to the provisions of 23 USC 129 (a)(3), as
146 amended from time to time.

147 (f) Tolls shall not be subject to and shall be exempt from any sales,
148 use, excise, gross receipts or any similar taxes.

149 Sec. 5. (NEW) (*Effective from passage*) (a) The provisions of this
150 section shall not be effective unless a tolling proposal to implement
151 electronic tolling systems is approved or deemed approved by the
152 General Assembly pursuant to section 2 of this act.

153 (b) If an electronic tolling system uses a transponder or other
154 electronic transaction or payment technology device, the device shall
155 be located in or on the motor vehicle entering the electronic tolling
156 system in a manner prescribed by the department or toll operator and
157 consistent with applicable law.

158 (c) All electronic tolling systems operated by the department or a
159 toll operator shall be interoperable with all other electronic tolling
160 systems in this state and shall otherwise comply with all state and
161 federal interoperability requirements and standards. Such tolling
162 system interoperability shall extend to system technology and the
163 transfer of funds. The provisions of chapters 61 and 61b of the general
164 statutes shall not apply to this subsection. The Commissioners of
165 Transportation and Motor Vehicles shall consult with the
166 Commissioner of Administrative Services to ensure the coordination
167 and compatibility of information system technology and data of any
168 electronic tolling system.

169 Sec. 6. (NEW) (*Effective from passage*) (a) The provisions of this
170 section shall not be effective unless a tolling proposal to implement
171 electronic tolling systems is approved or deemed approved by the
172 General Assembly pursuant to section 2 of this act.

173 (b) Prior to commencing construction of an electronic tolling system

174 on any highway, or portion thereof, of this state, the department shall
175 hold at least one public informational meeting in the general vicinity of
176 the proposed toll location to receive comments on the proposed toll,
177 methodology for setting and changing the tolls and user classifications.

178 Sec. 7. (NEW) (*Effective from passage*) (a) The provisions of this
179 section shall not be effective unless a tolling proposal to implement
180 electronic tolling systems is approved or deemed approved by the
181 General Assembly pursuant to section 2 of this act.

182 (b) The department shall develop and implement a privacy policy
183 relating to any toll customer information and other data collected,
184 received, maintained, archived, accessed and disclosed by the
185 department to a toll operator.

186 (c) The department shall implement a privacy protocol to protect
187 and appropriately limit access to toll customer information and other
188 data collected, received, maintained and archived.

189 (d) Neither the department nor any toll operator shall sell or use any
190 toll customer information or other data for commercial purposes
191 unrelated to the charging, collection and enforcement of tolls,
192 administrative fees and penalties. The prohibition set forth in this
193 subsection shall not apply to toll customer information or other data
194 that does not directly or indirectly identify a toll customer used for
195 research purposes authorized by the department.

196 (e) (1) Except as required by applicable law or in connection with an
197 administrative or court proceeding, all information that specifically
198 identifies a toll customer and relates to a specific tolling transaction
199 shall be destroyed not later than one year after the later of the tolling
200 transaction or collection of the toll, whether through normal processes
201 or enforcement.

202 (2) Except as required by applicable law or in connection with an
203 administrative or court proceeding, all information relating to a toll
204 customer account that specifically identifies a toll customer shall be

205 destroyed not later than one year after the collection of all tolls and
206 fees incurred by such toll customer, whether through normal
207 processes, enforcement or closing of such account.

208 (f) Toll customer information and data shall not be deemed a public
209 record, as defined in section 1-200 of the general statutes. The
210 department may release toll customer information and data that does
211 not directly or indirectly identify a toll customer for research purposes
212 authorized by the department.

213 (g) Toll operators shall be subject to the provisions of chapter 62a of
214 the general statutes.

215 Sec. 8. (NEW) (*Effective from passage*) (a) The provisions of this
216 section shall not be effective unless a tolling proposal to implement
217 electronic tolling systems is approved or deemed approved by the
218 General Assembly pursuant to section 2 of this act.

219 (b) The Commissioner of Transportation shall adopt regulations, in
220 accordance with the provisions of chapter 54 of the general statutes, to
221 carry out the provisions of sections 3 to 7, inclusive, of this act.

222 (c) Such regulations may include, but need not be limited to: (1)
223 Establishment of variable or dynamic toll rates that take into
224 consideration the day of the week, level of congestion or anticipated
225 congestions; (2) establishment of different fees based on the type of
226 vehicle classification, size, weight, number of axles or vehicle
227 occupancy; (3) establishment of reduced or discounted tolls for toll
228 road users or classes of users registered in the state that are equipped
229 with transponders or similar technology and have valid toll customer
230 accounts with the department or the toll operator, as the case may be;
231 (4) exemptions for high-occupancy commuter vehicles and motor
232 vehicles leased to an agency of this state, owned by the state, used by a
233 law enforcement unit, as defined in section 7-294a of the general
234 statutes, used by a member of an emergency medical service
235 organization, as defined in section 19a-175 of the general statutes,
236 while responding to emergencies and used to provide public transit

237 services; (5) the imposition of surcharges, premiums or additional fees
238 for designated users or classes of users of a tolled highway who travel
239 on such highway without a valid transponder or similar technology;
240 and (6) the imposition of administrative charges and penalties for late
241 payment and toll evasion.

242 (d) Such regulations shall include: (1) Due process procedures that
243 include notice, the right to challenge a toll and associated charges, the
244 opportunity for a hearing and a right to appeal; and (2) procedures for
245 enforcement of any administrative decision.

246 (e) The Commissioner of Motor Vehicles shall adopt regulations, in
247 accordance with the provisions of chapter 54 of the general statutes,
248 consistent with its duties and responsibilities under sections 3 to 7,
249 inclusive, of this act and shall coordinate and consult with the
250 Commissioner of Transportation in the development of such
251 regulations.

252 Sec. 9. (NEW) (*Effective from passage*) (a) The provisions of this
253 section shall not be effective unless a tolling proposal to implement
254 electronic tolling systems is approved or deemed approved by the
255 General Assembly pursuant to section 2 of this act.

256 (b) The department, after notice and hearing, may impose a civil
257 penalty of not more than one hundred dollars for each violation of a
258 provision of the regulations adopted pursuant to section 8 of this act
259 on any of the following persons with respect to toll nonpayment, toll
260 evasion and related fees imposed pursuant to sections 3 to 8, inclusive,
261 of this act: (1) The operator of a motor vehicle on a tolled highway; (2)
262 the registered owner of a motor vehicle operated on a tolled highway,
263 if other than the operator, if such vehicle was used or operated with
264 the express or implied permission of the registered owner at the time
265 of the tolling transaction; (3) the lessee of a motor vehicle operated on a
266 tolled highway, if other than the operator, if such vehicle was used or
267 operated with the express or implied permission of the lessee at the
268 time of the tolling transaction; and (4) the lessor of a motor vehicle
269 operated on a tolled highway.

270 (c) A copy of the motor vehicle rental agreement, lease, other
271 contract document or affidavit identifying the lessee of the motor
272 vehicle at the time of the tolling transaction shall be prima facie
273 evidence that the person named in the rental agreement, lease, other
274 contract document or affidavit was operating the motor vehicle at all
275 relevant times relating to the tolling transaction. A lessor shall
276 cooperate with the department or the toll operator, as the case may be,
277 in providing the department or toll operator any requested
278 information concerning the lessee contained in the lessor's record.

279 (d) The Department of Motor Vehicles shall provide the department
280 and any toll operator with the information necessary to collect tolls
281 and enforce penalties for toll nonpayment, toll evasion or other toll-
282 related violations, including, but not limited to, information regarding
283 the registered owner of a motor vehicle that was operated on a tolled
284 highway and the make of the motor vehicle, the motor vehicle's license
285 plate and the address of the registered owner of the motor vehicle.

286 Sec. 10. (NEW) (*Effective from passage*) (a) (1) When the Treasurer
287 determines the pledged revenues, as defined in section 13b-75 of the
288 general statutes, credited to the Special Transportation Fund exceed
289 two and one-half times the debt service requirements, as defined in
290 said section, the Treasurer shall provide written notice to the
291 Commissioner of Revenue Services of such determination.

292 (2) Not later than fifteen days after commencement of the collection
293 of tolls through the use of any electronic tolling system, as defined in
294 section 1 of this act, on the highways of this state, the Commissioner of
295 Transportation shall provide written notice to the Commissioner of
296 Revenue Services of the date of such commencement.

297 (b) Notwithstanding the provisions of subdivision (2) of subsection
298 (a) of section 12-458 and section 12-458h of the general statutes, on July
299 first of the first full fiscal year that follows the later of the notices
300 required under subdivisions (1) and (2) of subsection (a) of this section,
301 the amount of the tax imposed under subdivision (2) of subsection (a)
302 of section 12-458 of the general statutes shall be decreased by one cent

303 and for each of the immediately succeeding four fiscal years, the
304 amount of such tax shall be decreased by an additional one cent. For
305 each fiscal year thereafter, the amount of such tax shall be the same as
306 for the fifth fiscal year. The Commissioner of Revenue Services shall
307 calculate the applicable tax rate per gallon of fuel, as defined in section
308 12-455a of the general statutes, that is sold or used in this state for each
309 such fiscal year and notify each distributor, the chairpersons and
310 ranking members of the joint standing committee of the General
311 Assembly having cognizance of matters relating to finance, revenue
312 and bonding and the Secretary of the Office of Policy and Management
313 of the applicable tax rate for each such fiscal year.

314 Sec. 11. Subparagraph (L) of subdivision (1) of section 12-408 of the
315 2018 supplement to the general statutes is repealed and the following
316 is substituted in lieu thereof (*Effective July 1, 2018, and applicable to sales*
317 *occurring on or after July 1, 2018*):

318 (L) (i) For calendar months commencing on or after July 1, 2017, the
319 commissioner shall deposit into the Special Transportation Fund
320 established under section 13b-68 seven and nine-tenths per cent of the
321 amounts received by the state from the tax imposed under
322 subparagraph (A) of this subdivision;

323 (ii) For calendar months commencing on or after July 1, [2020] 2018,
324 but prior to July 1, [2021] 2019, the commissioner shall deposit into the
325 Special Transportation Fund established under section 13b-68 twenty
326 per cent of the amounts received by the state from the tax imposed
327 under subparagraphs (A) and (H) of this subdivision on the sale of a
328 motor vehicle;

329 (iii) For calendar months commencing on or after July 1, [2021] 2019,
330 but prior to July 1, [2022] 2020, the commissioner shall deposit into the
331 Special Transportation Fund established under section 13b-68 forty per
332 cent of the amounts received by the state from the tax imposed under
333 subparagraphs (A) and (H) of this subdivision on the sale of a motor
334 vehicle;

335 (iv) For calendar months commencing on or after July 1, [2022] 2020,
336 but prior to July 1, [2023] 2021, the commissioner shall deposit into the
337 Special Transportation Fund established under section 13b-68 sixty per
338 cent of the amounts received by the state from the tax imposed under
339 subparagraphs (A) and (H) of this subdivision on the sale of a motor
340 vehicle;

341 (v) For calendar months commencing on or after July 1, [2023] 2021,
342 but prior to July 1, [2024] 2022, the commissioner shall deposit into the
343 Special Transportation Fund established under section 13b-68 eighty
344 per cent of the amounts received by the state from the tax imposed
345 under subparagraphs (A) and (H) of this subdivision on the sale of a
346 motor vehicle; and

347 (vi) For calendar months commencing on or after July 1, [2024] 2022,
348 the commissioner shall deposit into the Special Transportation Fund
349 established under section 13b-68 one hundred per cent of the amounts
350 received by the state from the tax imposed under subparagraphs (A)
351 and (H) of this subdivision on the sale of a motor vehicle.

352 Sec. 12. Subparagraph (K) of subdivision (1) of section 12-411 of the
353 2018 supplement to the general statutes is repealed and the following
354 is substituted in lieu thereof (*Effective July 1, 2018, and applicable to sales*
355 *occurring on or after July 1, 2018*):

356 (K) (i) For calendar months commencing on or after July 1, 2017, the
357 commissioner shall deposit into said Special Transportation Fund
358 seven and nine-tenths per cent of the amounts received by the state
359 from the tax imposed under subparagraph (A) of this subdivision;

360 (ii) For calendar months commencing on or after July 1, [2020] 2018,
361 but prior to July 1, [2021] 2019, the commissioner shall deposit into the
362 Special Transportation Fund established under section 13b-68 twenty
363 per cent of the amounts received by the state from the tax imposed
364 under subparagraphs (A) and (H) of this subdivision on the sale of a
365 motor vehicle;

366 (iii) For calendar months commencing on or after July 1, [2021] 2019,
 367 but prior to July 1, [2022] 2020, the commissioner shall deposit into the
 368 Special Transportation Fund established under section 13b-68 forty per
 369 cent of the amounts received by the state from the tax imposed under
 370 subparagraphs (A) and (H) of this subdivision on the sale of a motor
 371 vehicle;

372 (iv) For calendar months commencing on or after July 1, [2022] 2020,
 373 but prior to July 1, [2023] 2021, the commissioner shall deposit into the
 374 Special Transportation Fund established under section 13b-68 sixty per
 375 cent of the amounts received by the state from the tax imposed under
 376 subparagraphs (A) and (H) of this subdivision on the sale of a motor
 377 vehicle;

378 (v) For calendar months commencing on or after July 1, [2023] 2021,
 379 but prior to July 1, [2024] 2022, the commissioner shall deposit into the
 380 Special Transportation Fund established under section 13b-68 eighty
 381 per cent of the amounts received by the state from the tax imposed
 382 under subparagraphs (A) and (H) of this subdivision on the sale of a
 383 motor vehicle; and

384 (vi) For calendar months commencing on or after July 1, [2024] 2022,
 385 the commissioner shall deposit into the Special Transportation Fund
 386 established under section 13b-68 one hundred per cent of the amounts
 387 received by the state from the tax imposed under subparagraphs (A)
 388 and (H) of this subdivision on the [sale] acceptance or receipt in this
 389 state of a motor vehicle.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section

Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>July 1, 2018, and applicable to sales occurring on or after July 1, 2018</i>	12-408(1)(L)
Sec. 12	<i>July 1, 2018, and applicable to sales occurring on or after July 1, 2018</i>	12-411(1)(K)

TRA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Resources of the General Fund	GF - Revenue Loss	66.9 million	145.6 million
Resources of the Special Transportation Fund	TF - Revenue Gain	66.9 million	145.6 million
Treasurer, Debt Serv.	TF - Cost	See Below	See Below

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Department of Transportation (DOT) to conduct National Environmental Policy Act studies in order to develop electronic tolling on state highways. The bill may result in an initial cost of up to \$5 million to the Special Transportation Fund through Special Tax Obligation (STO) bond debt service for the study, although the state may be eligible to use Federal Funds if available.

After the study is completed, the DOT must file the toll proposal with the House and Senate clerks, which must be voted on by the Transportation Committee and the General Assembly. If the toll proposal is accepted by these governing bodies and by the Federal Highway Administration (FHWA), it is estimated that the annual toll revenue may be between \$600-\$800 million, which is dependent on several factors relating to toll rates and how many miles will be tolled. The bill specifies that the toll revenue will be used according to federal law and be used for any debt service payments on the STO bonds.

The bill also reduces by one half cent annually for five years the motor vehicles fuel tax which includes: (1) the gasoline tax, (2) the propane and natural gas tax and (3) the diesel fuel tax. This tax is currently 25 cents per gallon for gasoline and gasohol; 26 cents per gallon for propane and natural gas; and a rate set annually by the Commissioner of Revenue Services for diesel fuel. For FY 18, the diesel tax is 41.7 cents per gallon. Under the bill, the reduction starts when a 2.5 revenue to debt repayment threshold within the STF is exceeded. The bill requires a single year of exceeding the specified revenue to debt ratio to institute multiple automatic revenue collection rate decreases over the course of 5 subsequent fiscal years and is silent on what happens if revenues decrease below the 2.5 revenue to debt ratio in subsequent years.

The Special Tax Obligation (STO) bonds used to fund transportation projects require a minimum revenue to debt ratio of 2.0. To the extent that the automatic provisions might decrease expected revenues to below the 2.0 ratio requirement, there is the potential for significant increases in debt service costs, expenses related to mitigation of contractual requirements, or similar repayment penalties. Similarly, while the 2.0 revenue to debt service requirement is a required minimum when bonds are issued, bond markets respond to variation in actual revenue levels. To the extent that the bill decreases single year or near future ratio levels below where they otherwise would have been absent the provisions of the bill, or limits the funds ability to reach a ratio beyond 2.5, there is the potential for increased costs of borrowing.

The bill also allows DOT to impose a civil penalty of up to \$100 for each violation related to toll evasion which will result in increased toll revenue dependent on the number of violations.

Lastly, the bill starts the five year phase in of the new car sales tax in FY 19 instead of FY 21. This will increase revenue to the Special Transportation Fund by \$66.9 million in FY 19 and \$145.6 million in FY 20 which will also be a corresponding revenue loss to the General

Fund.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future, which will fully phase in the sales tax on new cars to the STF in FY 23. Also, if passed by the legislature and the FHWA, toll revenue will be collected to at least cover the debt service on the construction and maintenance of the electronic toll facilities.

OLR Bill Analysis

sHB 5391

AN ACT CONCERNING THE PREPARATION OF A TOLLING PROPOSAL AND SUPPORT FOR TRANSPORTATION INFRASTRUCTURE.

SUMMARY

This bill requires the Department of Transportation (DOT) to:

1. conduct studies and satisfy other conditions required under the National Environmental Policy Act (NEPA) in order to develop electronic tolling systems on state highways;
2. procure a program manager and any other necessary consultants to help develop toll systems; and
3. develop a tolling proposal, to the bill's specifications, and submit it to the legislature for approval.

The bill establishes a legislative hearing and approval process for DOT's proposal. Under the bill, the proposal is (1) approved upon a majority vote of both houses or (2) deemed approved if the legislature does not vote within the required timeframe.

After a proposal is approved, the bill authorizes DOT to build, maintain, and operate electronic tolls, or contract with a private entity (toll operator) to operate them. The bill includes toll implementation and administration language (§§ 3-9), which the bill specifies is not effective until a toll proposal is approved or deemed approved. The language covers contracting and procurement; toll collection and revenue; toll rates, discounts, and exemptions; enforcement and penalties; data privacy; and system interoperability. Under the bill, toll revenue must be deposited into the Special Transportation Fund (STF) and spent only as federal law allows (see BACKGROUND).

The bill also makes two transportation-related revenue changes. It requires that the Department of Revenue Services (DRS) commissioner begin diverting a portion of motor vehicles sales and use tax revenue to the STF in FY 19, rather than in FY 21. It also reduces the motor fuels tax by five cents over a five-year period, beginning after DOT starts collecting tolls and other conditions are met.

EFFECTIVE DATE: Upon passage, except that the sales and use tax provisions are effective July 1, 2018 and applicable to sales occurring on or after that date.

§ 2 — TOLLING PROPOSAL

Proposal Contents

The proposal DOT prepares must:

1. implement tolls on I-95, I-91, I-84, and the Merritt and Wilbur Cross parkways;
2. identify the specific locations where the proposed tolls may be charged (i.e., toll gantries);
3. include the (a) toll amounts that may be charged, including the use of value pricing and discounts, if any, and (b) time periods for peak and off-peak travel; and
4. estimate the toll system's capital and operating costs.

Legislative Approval Process

Under the bill, the DOT commissioner must file the toll proposal with the House and Senate clerks. The clerks must refer it to the Transportation Committee (1) within five days after receiving it or (2) if they receive it when the legislature is not in session, within five days after the first day of the next regular session.

The bill requires the Transportation Committee to hold a public hearing on the proposal within ten days after its referral. Within five days after the hearing, the committee must (1) hold a roll-call vote to approve or reject the proposal and (2) forward the proposal and the

vote record to the General Assembly.

Within 30 days after the proposal is forwarded, the General Assembly may approve the proposal, in whole, or reject it. The proposal is:

1. approved, if a majority in both houses votes to approve;
2. rejected, if a majority in either house votes to reject; or
3. deemed approved, if both houses do not vote within the 30-day timeframe.

Under the bill, the 30-day timeframe does not start or end unless the legislature is in regular session. If the session adjourns before the 30th day and the legislature has not acted on the proposal, the proposal is deemed filed on the first day of the next regular session.

The bill allows the DOT commissioner to revise the proposal if it is rejected by the legislature. After revising it, he must submit it to the clerks, and it follows the same approval process as for the initial proposal.

Federal Approval

Under the bill, once a toll proposal is approved or deemed approved, the DOT commissioner must also submit the proposal to the Federal Highway Administration (FHWA). The bill prohibits him from submitting a tolling proposal to the FHWA unless it is approved or deemed approved.

Under federal law, DOT may not implement tolls until it receives federal approval and executes a tolling agreement with the FHWA (see BACKGROUND).

§ 3-9 — TOLL IMPLEMENTATION AND ADMINISTRATION

Upon the approval of DOT's tolling proposal, the bill allows DOT to implement electronic tolling in the state. Under the bill, an "electronic tolling system" records, monitors, collects, and enables payment of

tolls. It includes transponders or other electronic transaction or payment technology devices or video toll transaction systems. If transponders or similar devices are used, the bill requires them to be placed in or on motor vehicles in the way DOT or a toll operator prescribes.

Tolling Agreements and Authorizations

Under the bill, DOT may:

1. enter into tolling agreements with the FHWA and other related agreements with other governmental entities to carry out its duties under the bill;
2. retain and spend money for technical, traffic, revenue, financial, legal, and other types of consultants and experts to help develop and implement tolls; and
3. procure, retain, and spend funds for toll operators, vendors, suppliers, designers, engineers, software designers, installers, contractors, and other personnel, and for other equipment, material, staff, and service to help develop and implement the tolling system.

The bill authorizes DOT and the Department of Motor Vehicles (DMV) to enter into reciprocal agreements with other states and jurisdictions, and with toll operators in other states, to share information on out-of-state vehicle owners who have used a tolled highway, including the name and address of the vehicle owner and the vehicle's make and license plate number. DOT, DMV, and the toll operator may enter into agreements with other states and toll operators for additional enforcement mechanisms to efficiently collect tolls from out-of-state residents.

The bill also allows DOT and the Department of Emergency Services and Public Protection to enter into an agreement to have state police enforce laws on tolled highways that they do not enforce elsewhere (e.g., laws on toll evasion). It gives state and local police the

same powers on tolled roads as they have in their respective jurisdictions.

Toll Collection and Revenue

Under the bill, DOT may charge, collect, retain, and set the amount of tolls on highways or portions of highways, and retain and employ the assistance it needs to collect the tolls. Toll revenue (1) must be deposited into the STF, (2) cannot be commingled with other funds and revenues, and (3) must be spent only as federal law allows (see BACKGROUND).

The department must set the toll amounts to provide sufficient funding to cover specified costs, but it may consider the availability of funds from other sources in doing so. Under the bill, the revenue generated by tolls, plus such other available funding, must cover, at a minimum, the following costs:

1. owning, maintaining, repairing, rebuilding, improving, rehabilitating, using, administering, controlling, and operating tolled highways;
2. the principal, interest, and any redemption premium on notes or bonds relating to the tolled highways, as they become due and payable; and
3. creating and maintaining reserves established under laws on state highways and bridges to operate and maintain the tolled highways.

Tolls DOT establishes are not subject to supervision or regulation by any other commission, board, bureau, authority, state agency or political subdivision, except as otherwise provided by law.

Under the bill, tolls are not subject to, and are exempt from, the sales and use, excise, gross receipts, or similar taxes.

Regulations

Toll Rates, Application, and Exemptions. The bill requires DOT

to adopt implementing regulations, which must cover the following:

1. setting variable or dynamic toll rates that consider the day of the week and level of traffic congestion or anticipated congestion;
2. setting different fees depending on the type of vehicle, including its size, weight, occupancy, and number of axles;
3. setting reduced or discounted rates for users registered in Connecticut and equipped with transponders or similar technology whose owners have valid accounts with DOT or the toll operator;
4. exempting (a) law enforcement, (b) emergency personnel responding to emergencies, (c) state-owned or -leased vehicles, (d) public transit vehicles, and (e) high occupancy vehicles;
5. imposing surcharges, premiums, or additional fees on users without a valid transponder or similar technology; and
6. imposing administrative charges and penalties for late payment of, and evading, tolls.

Due Process. DOT's regulations must include procedures for due process that include notice, the right to challenge a toll and associated charges, the opportunity for a hearing and right to appeal, and procedures for enforcing administrative decisions.

DMV. The bill also requires the DMV commissioner, in consultation with the DOT commissioner, to adopt regulations to carry out its responsibilities under the bill.

Notice and Privacy

The bill requires DOT to notify drivers in advance of (1) the toll rates and (2) how to pay them. It must hold at least one public informational meeting near the proposed toll location before building a toll system, during which it must receive comments on the proposed

toll, rate-setting methodology and user classifications.

DOT must develop and implement a (1) privacy policy for toll customer information and other data, collected, received, maintained, archived, accessed, and disclosed by DOT to a toll operator, and (2) protocol to protect and limit access to toll customer information and other data collected, received, maintained, and archived.

Except as required by law or an administrative or court proceeding, all information relating to a specific transaction of a toll customer or to a "toll customer account" that specifically identifies the toll customer must be destroyed. In the case of a specific transaction, this information must be destroyed within one year after the later of the tolling transaction or toll collection, whether through normal processes or enforcement. In the case of a customer account, such information must be destroyed within one year after the collection of all tolls and fees the customer incurred, whether through normal processes, enforcement, or the account's closing. "Toll customer account" apparently refers to a billing account the customer establishes.

The bill prohibits DOT or a toll operator from selling or using any toll customer information or other data for commercial purposes unrelated to the charging, collection, and enforcement of tolls, administrative fees, and penalties. It exempts toll customer data and information from disclosure under the Freedom of Information Act and subjects toll operators to laws that apply to state contractors who receive confidential information. However, DOT may release customer information or other data that does not directly or indirectly identify a customer and is used for department-authorized research purposes.

Enforcement and Penalties

Under the bill, DOT, after notice and a hearing, may impose a civil penalty of up to \$100 for each violation of the regulations related to not paying a toll, toll evasion, or any related fees. It may impose the penalty on (1) a vehicle's driver or (2) its owner or lessee if the vehicle was operated by someone else with the owner's or lessee's permission.

The penalty also may be imposed on a vehicle's lessor. A copy of a motor vehicle rental agreement, lease, or other contract or affidavit identifying the lessee at the time of the tolling transaction is prima facie evidence that the person named in the agreement was operating the vehicle at all relevant times related to the toll.

The bill requires vehicle lessors to cooperate with DOT or the toll operator in providing any information about the lessee that DOT or the toll operator requests from the lessor's record (presumably the lease agreement or contract). DMV must provide DOT or the toll operator any information it needs to collect tolls and enforce penalties for nonpayment, toll evasion, or other violations, including information on the vehicle's owner and his or her address, and the vehicle's make and license plate number.

Toll System Interoperability

The bill requires that the tolling system be compatible with other electronic tolling systems in the state and comply with all state and federal interoperability requirements and standards, including system technology and fund transfers. (Interoperability refers to the ability of computer systems to exchange and use information.) The DOT and DMV commissioners must consult with the administrative services commissioner to ensure coordination and compatibility of information system technology and data. The bill specifies that, for purposes of interoperability, state laws on state information and telecommunications systems and geospatial information systems do not apply to electronic tolling systems. These include laws on, among other things, interagency agreements, legislative access to state agency records, and hiring of state employees by, and disqualification of, contractors and subcontractors.

§ 10 — GAS TAX REDUCTION

The bill requires the state treasurer to notify the DRS commissioner, in writing, when she determines that revenue credited to the STF (i.e., "pledged revenues") exceed two and one-half times the debt service owed on transportation Special Tax Obligation (STO) bonds. It also

requires the DOT commissioner to notify the DRS commissioner, in writing, of the date DOT begins collecting tolls, within 15 days after such collection begins.

The bill gradually reduces the motor fuels tax by five cents over five years (one cent in each fiscal year). The initial one-cent reduction starts on July 1 of the first full fiscal year following DRS' receipt of the later of the two above required notices.

Under the bill, DRS must calculate, for each fiscal year, the applicable tax rate per gallon of fuel and provide notice of the tax rate to each distributor, the policy and management secretary, and the Finance, Revenue and Bonding Committee chairpersons.

§§ 11 & 12 — SALES AND USE TAX REVENUE DIVERSION FROM CERTAIN MOTOR VEHICLE SALES

Current law phases in over five years a diversion of the motor vehicles sales and use tax to the STF according to a specified schedule that begins in FY 21. The bill phases in the diversion earlier, beginning in FY 19, and adjusts the schedule accordingly. Table 1 provides the amount of the diversion under current law and under the bill.

As under existing law, the revenue diversion applies to revenue from motor vehicle sales subject to the 6.35% rate or 7.75% luxury tax rate (generally for those costing more than \$50,000).

Table 1: Schedule of Motor Vehicle Sales and Use Tax Diversion to STF

<i>Fiscal Year</i>	<i>% of Revenue Diverted to STF</i>	
	<i>Current Law</i>	<i>Bill</i>
19	--	20
20	--	40
21	20	60
22	40	80
23	60	100
24	80	100
25 and thereafter	100	100

BACKGROUND

National Environmental Policy Act (NEPA)

NEPA requires federal agencies to consider the environmental effects of their proposals and actions, including the projects they fund (42 U.S.C § 4321 et seq.). Federal regulations specify the basic requirements for making decisions under NEPA, which include (1) assessing social, economic, and environmental impacts; (2) analyzing a project alternatives; (3) considering appropriate impact mitigation; and (4) providing opportunities for public participation (40 C.F.R. §§ 1500-1508).

Tolling and Federal Law

Although states are free to toll roads, bridges, and tunnels built without federal funds, federal law limits the imposition of tolls on existing federal-aid highways, especially interstate highways. But recent federal laws have expanded states' abilities to allow tolling in certain instances, such as when building new interstate routes or when adding a new lane to an existing interstate highway (23 U.S.C. § 129).

Federal law also has several pilot programs, such as the Value Pricing Pilot Program, in which participating states use “congestion pricing” to try to manage traffic flow and reduce traffic congestion. (Congestion pricing is the practice of charging higher tolls when traffic is heaviest and lower or no tolls at other times.) Connecticut is participating in the Value Pricing Pilot Program.

Toll Revenue Restrictions

Under federal law, toll revenue must be used first on the facility being tolled, including (1) debt service for the tolled road; (2) a reasonable return on investment of any private person financing the road; (3) road maintenance, operating, and improvement costs; and (4) if applicable, payments that the entity that controls tolling revenue owes to another party under a public-private partnership agreement (23 U.S.C. § 129(a)(3)(A)).

If the public authority with jurisdiction over the toll road has met the annual financial obligations related to the toll road and certifies

that the road is adequately maintained, any additional toll revenue may be used for other roads and other uses allowed under federal highway law (e.g., maintenance and improvement of other highways, congestion mitigation and air quality improvements, highway safety initiatives, and certain public transit improvements).

Special Transportation Fund

The STF is a dedicated fund used to finance the state's transportation infrastructure program and operate DOT and DMV (CGS § 13b-68). The law requires specified tax revenue (e.g., fuel taxes and a portion of sales and use tax revenue) and various transportation-related fees, fines, and charges to be credited to the STF. By law, STF revenue is pledged to STO bonds issued for transportation projects through DOT's capital program (CGS §§ 13b-74 to 13b-77), and its resources must be used first to pay off STO bond debt service.

Connecticut statutes contain a "lockbox" provision, which makes the STF a perpetual fund, requires its current revenue sources to continue to be placed in the fund as long as the state collects them, and restricts the use of its resources to transportation purposes (CGS § 13b-68(b)). In 2017, the legislature approved a constitutional amendment to provide these "lockbox" protections in the constitution. The amendment will be placed on the November 2018 general election ballot.

Related Bills

Several bills favorably reported by the Transportation Committee contain provisions related to tolling:

1. HB 5046, also favorably reported by the Finance, Revenue and Bonding Committee, allows DOT to implement tolling on state highways and contains similar tolling implementation language;
2. SB 389 creates the quasi-public Connecticut Transportation Authority and authorizes it to implement tolls on I-84, I-91, I-95 and the Merritt and Wilbur Cross Parkways; and

3. sHB 5393 creates a framework for a quasi-public Connecticut Transportation Finance Authority, which would be established if the General Assembly authorizes tolls.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 19 Nay 17 (03/23/2018)