OLR Bill Analysis
sSB 423

AN ACT CONCERNING FUNDING FOR CONNECTICUT’S TRANSPORTATION FUTURE.

SUMMARY

This bill authorizes the Department of Transportation (DOT) to build, maintain, and operate electronic tolls on I-95, I-91, I-84, and portions of Route 15. It also establishes a Transportation Priority Projects (TPP) account within the Special Transportation Fund (STF), which must be used to pay for specified transportation projects.

Under the bill, DOT may set toll rates and collect toll revenue, which must be deposited into the STF and spent in accordance with federal law (see BACKGROUND). Toll rates may vary based on the time of day or anticipated traffic congestion and may include toll discounts for certain users, among other things. DOT must set the rates to cover at least the cost of (1) tolled highway construction, maintenance, operation, and improvement and (2) debt service on obligations related to such highways.

The bill allows the department to hire consultants and other contractors and enter into agreements necessary to implement tolling (e.g., a tolling agreement with the Federal Highway Administration (FHWA)). It also requires that any tolling system comply with all state and federal interoperability requirements.

The bill contains provisions regarding public hearing and notice requirements, toll customer privacy, and toll enforcement and penalties. It also requires the DOT and Department of Motor Vehicles (DMV) commissioners to adopt implementing regulations.

EFFECTIVE DATE: Upon passage

§§ 1 & 3 — TOLL AUTHORIZATION AND IMPLEMENTATION
The bill authorizes DOT to construct, maintain, and operate electronic tolling systems on I-95, I-91, I-84, and portions of Route 15 ("specified highways"). It also allows DOT to contract with a private entity to operate the toll systems (i.e., a toll operator), whose duties may include collecting tolls, administrative charges, and penalties.

Under the bill, an “electronic tolling system” is an electronic system used for recording, monitoring, collecting, and paying tolls. It includes video toll transaction systems, transponders, or other electronic transaction or payment technology devices.

**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. procure, retain, and spend money for technical, traffic, revenue, financial, legal, and other types of consultants and experts to help develop, implement, operate, and maintain tolls; and

3. procure, retain, and spend funds for toll operators, vendors, suppliers, designers, engineers, software designers, installers, contractors, customer service personnel, and other personnel, and for other equipment, material, staff, and service to help develop and implement the tolling system and collect and enforce tolls.

The bill authorizes DOT and DMV, either jointly or separately, 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, jurisdictions, and toll operators to efficiently collect tolls from out-of-state residents.
§§ 4 & 8 — TOLL RATES, COLLECTION, AND REVENUE

Setting Rates

The bill authorizes DOT to charge, collect, retain, set, and modify tolls on the specified highways, but it prohibits the department from increasing the toll rates for 10 years after tolling begins.

The department must set the toll rates 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 least the following:

1. costs related to 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.

The bill requires DOT to adopt regulations, which may cover the following:

1. setting variable 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, or number of axles;

3. establishing discounts or toll customer account credits for people with a transponder or other similar device issued by DOT or a toll operator;

4. imposing surcharges, premiums, or additional fees on users without a valid transponder or similar device;
5. imposing administrative charges and penalties for late payment of, and evading, tolls; and

6. specifying the manner in which a transponder or similar device must be located in or on a vehicle entering a tolling system, if the system uses such devices.

**Toll Revenue Use**

The bill requires toll revenue, as well as any revenue from penalties for toll nonpayment, evasion, and other toll-related violations, to be deposited into the STF. It also requires that toll revenue be used in accordance with:

1. federal restrictions on toll revenue use (23 U.S.C. § 129(a)(3)), including (a) debt service payments for projects on tolled highways, (b) tolled highway improvement, operating, and maintenance costs, and (c) any other project eligible for funding under federal highway law, and

2. the federal Value Pricing Pilot Program (P.L. 102-240, § 1012(b)), including the costs of mitigation measures to address the potential effects of tolled highways on low-income drivers.

**Public Notice**

Before beginning construction on an electronic tolling system on any highway, DOT must hold at least one public information meeting in the general vicinity of each proposed toll corridor.

DOT must erect and maintain signs in advance of a tolled highway to notify drivers (1) that a toll will be charged on the highway and (2) how to pay the toll.

**Exempt Vehicles**

Under the bill, upon presenting a DOT- or toll operator-issued transponder or similar device, the drivers of any of the following vehicles are exempt from tolls while in the course of their official duties:
1. state-owned or -leased vehicles,
2. vehicles used by state police officers,
3. fire department vehicles,
4. ambulances or other motor vehicles operated by emergency medical services personnel, and
5. public transit vehicles.

**Tax Exemption**

Under the bill, tolls are exempt from tax by the state, municipalities, and all other political subdivisions or special districts authorized to levy taxes.

**§§ 7 & 8 — ENFORCEMENT PROCEDURES AND PENALTIES**

The bill requires anyone contesting the amount of a toll or associated charges to be given an opportunity for a hearing with DOT in accordance with the Uniform Administrative Procedure Act. The department, after notice and a hearing, may impose the following civil penalties for violations of the regulations related to toll nonpayment, toll evasion, or any related fees: (1) up to $25 for a first violation, (2) up to $50 for a second violation, and (3) up to $100 for a third or subsequent violation.

It may impose the penalty on a vehicle’s (1) driver, (2) owner or lessee, if the vehicle was operated by someone else with the owner’s or lessee’s permission, or (3) 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 owner’s name and address and the vehicle’s make and license plate number.

The bill also requires the DMV commissioner, in coordination and consultation with the DOT commissioner, to adopt regulations to carry out DMV’s responsibilities under the bill. The regulations must include restrictions on issuing registrations to vehicle owners who owe tolls or administrative charges or penalties for late payment or toll evasion.

§§ 6 & 8 — PRIVACY PROVISIONS

Release of Toll Customer Information

The bill prohibits DOT or any toll operator from selling or using toll customer information or other data for any commercial purpose that is unrelated to charging, collecting, and enforcing tolls and related administrative fees and penalties. But it allows DOT to release, for DOT-authorized research purposes, toll customer data that does not directly or indirectly identify a toll customer.

The bill exempts toll customer information and data from disclosure under the Freedom of Information Act and subjects toll operators to existing requirements for state contractors who receive confidential information.

Destruction of Records

Except as required by law or an administrative or court proceeding, all information relating to a toll customer’s specific transaction or a “toll customer account” that specifically identifies the customer must be destroyed within a specified timeframe.

In the case of a specific transaction, the information must be destroyed within one year after the toll transaction or toll collection, whichever is later. In the case of a customer account, the 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.

**Regulations**

DOT’s implementing regulations may include provisions for protecting and appropriately limiting access to toll customer information and other data the department collects, receives, maintains, archives, accesses, and discloses.

**§ 5 — TOLL SYSTEM INTEROPERABILITY**

The bill requires the tolling system to be interoperable 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 state purchasing and printing do not apply to electronic tolling systems.

**§§ 1 & 9 — TRANSPORTATION PRIORITY PROJECTS (TPP) ACCOUNT**

The bill establishes the TPP account as a separate, nonlapsing account within the STF and requires it to contain all funds required by law to be deposited into it.

Under the bill, TPP account funds must be used to pay any capital costs (e.g., planning, acquisition, removal, construction, equipping, reconstruction, repair, rehabilitation, and improvement costs) for projects specified in the bill. Any expenditures from the account must be an eligible use of toll revenue under federal law (see BACKGROUND).

**Transfer to Account**

Beginning with FY 23, at the close of each fiscal year, the bill requires the comptroller to transfer to the TPP account any STF
unappropriated surplus that exceeds 5% of the total expenditures for the most recently completed fiscal year.

Projects
The bill requires that the funds in the TPP account be used for the following projects:

1. operational improvements to I-95;
2. Hartford viaduct replacement (I-84);
3. improvements to exits 3 through 8 on I-84 in Danbury;
4. improvements to the mixmaster on I-84 in Waterbury;
5. operational improvements to the interchanges between (a) I-91 and I-84, (b) Route 7 and Route 9, and (c) I-91, I-691, and Route 15;
6. movable bridge replacement on the New Haven Line;
7. rail car procurement;
8. Hartford Line improvements;
9. New Haven Line improvements, including (a) expanding the Danbury branch to Milford, (b) increasing the number of trains and service frequency on the Waterbury branch, (c) expanding the Waterbury branch to include Seymour, Shelton, and Derby, (d) adding a roof or canopy at the Talmage Hill commuter rail station in New Canaan, (e) adding a passing siding at the New Canaan commuter rail station, (f) expanding the northbound side of the parking lot and train platforms at the Stratford commuter rail station, and (g) improving parking and rail structures;
10. removal of the traffic signal on Route 9;
11. improvements to the New Haven Heroes Tunnel;
12. improvements to the New Haven and Stamford rail yards;

13. a new commuter rail station in Newington and on New Park Avenue in West Hartford; and


**Reporting**

Beginning on August 1 of the first full fiscal year following the collection of tolls, the bill requires the DOT commissioner to annually report to the Transportation Committee on (1) all TPP account expenditures and (2) the status of the projects listed above.

**BACKGROUND**

*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 eligible to toll under 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, and highway safety initiatives).

**Special Transportation Fund and the “Lockbox”**

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.

Both the state constitution and the general statutes contain a “lockbox” provision, which preserves the STF as a perpetual fund; requires that the fund be used exclusively for transportation purposes, including paying transportation-related debt; and requires that any funding sources directed to the STF by law continue to be directed there, as long as the law authorizes the state to collect or receive them (Conn. Const., art. III § 19; CGS § 13b-68(b)).

**Related Bills**

HB 7202, favorably reported by the Transportation Committee, contains substantially similar provisions authorizing tolls on I-95, I-91, I-84, and portions of Route 15.

HB 7280, favorably reported by the Transportation Committee, requires DOT to conduct federally-required toll studies; develop a proposal for implementing tolls on I-95, I-91, I-84, and portions of Route 15; and submit the proposal to the legislature for approval.

**COMMITTEE ACTION**
Transportation Committee

Joint Favorable
Yea  23   Nay  13   (03/20/2019)