

Date of Hearing: July 5, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
SB 532 (Wiener) – As Amended June 22, 2023

SENATE VOTE: Not applicable

SUBJECT: San Francisco Bay area toll bridges: tolls: transit operating expenses

SUMMARY: Requires the Bay Area Toll Authority (BATA) to increase by \$1.50 the toll for each of the seven state-owned toll bridges in the San Francisco Bay Area and continuously appropriates toll revenues to the Metropolitan Transportation Commission (MTC), including revenues from the toll increase for allocation to transit operators in the region that are experiencing a financial shortfall. Specifically, **this bill:**

- 1) Beginning January 1, 2024, and until December 31, 2028 requires MTC to increase the base toll rate by \$1.50 for the seven state-owned toll bridges within its jurisdiction and requires the toll to be adjusted annually based on the California Consumer Price Index.
- 2) Continuously appropriates moneys from the toll increase and other specified tolls to MTC to expend for specified purposes.
- 3) Requires MTC to provide revenues from the toll increase to toll operators within MTC's jurisdiction that are experiencing a financial shortfall and operate fixed-route public transit services, including bus, rail, or ferry and do not directly receive most of their revenues from the Golden Gate Bridge, Highway, and Transportation District.
- 4) Requires MTC to annually distribute at least 90% of the revenues from the toll increase to these operators in order to avoid service cuts and maintain operations, including safety, security, reliability, or cleanliness services and improvements.
- 5) Provides that MTC may only allocate these funds to a transit operator after it determines that the funds are necessary to avoid service cuts relative to service levels provided by that transit operator during the 2022-23 fiscal year.
- 6) Requires MTC to prioritize averting service cuts for transit operators that serve the highest number of transit riders.
- 7) Requires MTC to annually distribute no more than 10% of the revenues from the toll increase to assist eligible transit riders with restoring or reconfiguring service above levels provided during the 2022-23 fiscal year, or for the purpose of funding initiatives to transform transit service pursuant to the MTC's adopted Transit Transformation Action Plan, or to make specific safety, reliability, or cleanliness improvements.
- 8) Requires each transit operator eligible to receive an allocation to annually submit a five-year projection of its operating needs based on standardized assumptions and guidance developed by MTC.

- 9) Allows MTC to audit, request revision, or directly amend operating needs projections if necessary to ensure consistency and fairness across transit operators.
- 10) Prohibits the \$1.50 toll increase from being reduced without statutory authorization by the Legislature.
- 11) Authorizes BATA to issue revenue bonds to finance transit operations and capital funded by the \$1.50 toll increase.
- 12) Decreases the maximum amount of penalties that can be included in a schedule of toll evasion penalties for a toll evasion violation on a San Francisco Bay area state-owned toll bridge to instead be \$5 for the notice of toll evasion violation and \$10 for the notice of delinquent toll evasion violation beginning July 1, 2024.
- 13) States legislative intent to enact future legislation to require MTC to study, design, and implement an equity-based program to mitigate the impacts of the \$1.50 toll increase within two years of the effective date of this act.
- 14) Creates a state-local mandate and requires a 2/3 vote.

EXISTING LAW:

- 1) Creates the MTC as the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area. (Government Code section 66500)
- 2) Identifies the following state-owned toll bridges within MTC's jurisdiction:
 - a) Antioch Bridge;
 - b) Benicia-Martinez Bridge;
 - c) Carquinez Bridges;
 - d) Richmond-San Rafael Bridge;
 - e) Dumbarton Bridge;
 - f) San Mateo-Hayward Bridge; and,
 - g) San Francisco-Oakland Bay Bridge. (Streets and Highways Code section (SHC) 30910)
- 3) Creates BATA to administer the base \$1 auto toll for the San Francisco Bay Area's seven state-owned toll bridges. BATA operates under the same board that governs MTC; however, they are separate entities. In 2005, BATA's responsibilities were expanded to include administration of all toll revenues and joint oversight of the toll bridge construction program along with the California Department of Transportation (Caltrans) and the California Transportation Commission. Vests with the BATA the responsibility to administer all toll revenues from state-owned toll bridges within the geographic jurisdiction of the MTC. (SHC 30800)
- 4) Authorized a special election in the 9-county Bay Area region to increase bridge tolls by up to \$3, increasing tolls from \$5 to \$8 (SHC 30923).
- 5) Gives BATA the authority to control and maintain the Bay Area Toll Account and other subaccounts it deems necessary and appropriate to document toll revenue and operating

expenditures in accordance with generally accepted accounting principles and to transfer revenues to MTC after providing for operating assistance and paying for outstanding revenue bonds, as specified in statute. (SHC 30911)

- 6) Allows revenue derived from tolls on all bridges to be expended, subject to the adopted annual budget of the authority, for Safety and operational costs, including toll collection and maintenance costs, and costs of bridge construction and improvement projects. (SHC 30912)
- 7) Prohibits a schedule of toll evasion penalties for a toll evasion violation on a toll bridge from exceeding \$25 for the notice of toll evasion violation and \$50 for the notice of delinquent toll evasion violation (Vehicle Code 40258)

FISCAL EFFECT: The fiscal effect provided by the Senate Appropriations Committee is not relevant because this bill has been amended significantly since its analysis.

COMMENTS: Over 200 transit operators in California, including cities, counties, independent special districts, transportation planning agencies, private nonprofit organizations, universities, and tribes provide a wide variety of transit services. Prior to COVID-19, nationwide, based on data from the American Public Transit Association (APTA), transit ridership for both light rail and buses had declined to levels seen in 2012 for light rail, and ridership for buses had dropped to the levels of the early 1990s. California (except for the Bay Area which had flat ridership levels) experienced similar declines.

Transit ridership and revenues plunged during COVID. With the onset of the COVID-19 pandemic, during the first half of 2020, transit ridership plunged from 50% to as much as 94%. In efforts to stave off financial losses from declining transit ridership, the federal government provided relief for transit operators across the country. In March of 2020, Congress passed and the President signed the Coronavirus Aid, Relief and Economic Security (CARES) Act, which provided \$25 billion in relief to transit agencies. The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 added an additional \$14 billion in transit relief. The American Rescue Plan in March of 2021 provided an additional \$30.5 billion.

Transit ridership has improved since 2020, but is still far below January 2020 levels. In January of 2021, transit ridership nationally was at 48% of what it was prior to the pandemic. By the start of 2023, national ridership has returned to 73% of where it was pre-pandemic. The Pacific region of the United States has seen a smaller return to transit ridership than national trends, with ridership hovering at 67% of where it was pre-pandemic.

Ridership recovery in California has been mixed. Transit ridership has recovered unevenly across the state due to a variety of factors. Bay Area Rapid Transit (BART) has been hit particularly hard by the shift to remote work, and ridership these days is only about 35% of what it was before the pandemic, according to APTA. Similarly, Caltrain, has only 25% of its former ridership, according APTA. In contrast, Los Angeles's buses and trains, and the AC Transit bus service based in Oakland have been doing much better in 2023, carrying closer to 75% of their pre-pandemic ridership.

The variance in recovery and operating funding shortfalls among transit systems is based on a variety of factors that include what types of riders the system primarily served prior to COVID. Recovery, in part, depends on if most of the transit system's riders were "choice riders" who

choose to ride transit but have other options, such as commuters, or if they were dependent on transit for mobility because they lack a car. In addition, systems that rely heavily on passenger fares for revenue are struggling more financially than those that rely on local sales tax measures or other funding sources for operations funding. This is further complicated by some systems, such as fixed-rail, having little flexibility to change their operating routes to address changing travel patterns. Systems like fixed-rail have large fixed costs that are difficult to reduce the costs of compared to being able to reduce the cost of operating a bus-dependent system by eliminating or consolidating less-utilized bus routes.

Bay Area transit agencies facing operating shortfalls. MTC was created by the California Legislature in 1970 to help integrate bus and rail systems with the new BART system. MTC has grown significantly since then and directly distributes more than \$700 million a year to local public transit agencies and other recipients, and prioritizes requests from local agencies for millions more in state and federal funds. Acting as the Bay Area Toll Authority (BATA), MTC collects in excess of \$600 million a year in bridge tolls, and allocates these funds for the operation and upkeep of the region's seven state-owned toll bridges.

There are 27 transit agencies in the Bay Area, according to one source, but the landscape of operators in the area is more complex. The agencies range from large agencies such as BART and Caltrain which serve tens to millions of riders annually to much smaller ones such as Petaluma Transit and the Rio Vista Delta Breeze.

Fare dependent systems like BART and Caltrain have seen the slowest transit ridership returns and face the largest financial problems as a result. Prior to COVID-19, farebox revenues made up 70% of BART's operating budget, accounting for nearly \$600 million of their operating budget. For the 2023-24 fiscal year, BART anticipates the collection of \$255.2 million in operating revenue, down from \$578.8 million in 2019. BART anticipates that federal relief money will run out by fiscal year 2026-27, with projected annual deficits of \$140 million. Caltrain is likely to see its federal relief dollars run out in in fiscal year 2024-25, facing a projected \$25 million budget deficit in 2024 and a \$49 million budget deficit in 2025.

Recently passed 2023-24 Budget Act provides financial support for transit agencies. The legislature as part of the 2023-24 Budget Act recently passed a funding package that provides \$5.1 billion for transit across 2023-24, 2024-25, 2025-26 and 2026-27 fiscal years to help ensure that transit operators do not have to cut their service levels. The funding is 100% flexible for transit agencies to use for capital and operations expenses and is contingent on meeting specified accountability provisions.

Local revenues are an option to increase funding. The short term funding the state will provide is unlikely to cover the operating shortfalls of all transit operators based on budget forecasts provided by some of the larger operators in the state. As a result, transit agencies facing a shortfall not covered by the state relief will need to consider other ways to cover their shortfall. According to the author's office, the toll increase proposed in this bill is expected to yield roughly \$180 million annually over the 5-year period.

According to the author "Bay Area public transportation systems face ongoing risks from budget shortfalls resulting from pandemic ridership reductions, inflation, and the exhaustion of pandemic emergency federal relief funds. While temporary state relief to address the nearest-term funding shortfalls from these financial pressures is incredibly important, it does not come

close to addressing the full regional shortfall. Agencies will exhaust current funding before the region can identify and enact long-term funding solutions. The resulting shortfalls will force drastic service cuts that will irreparably damage the Bay Area's transit network, deeply harming low-income transit riders and undermining California's ability to meet its climate goals. SB 532 is critical to ensure Bay Area public transportation systems avert these service cuts and improve cleanliness, reliability, and safety by investing in reforms."

Writing in support, seven members of BART's board of directors state "we greatly appreciate the funding that the Legislature has included in the Fiscal Year 2023-24 State Budget. However, BART, alone, faces a deficit of almost \$1.1 billion through Fiscal Year 2027-28, and additional funding will be necessary to avoid drastic service cuts, station closures, and layoffs. SB 532 offers Bay Area transit agencies experiencing the worst shortfalls a lifeline until a Bay Area regional transportation funding measure can be placed on the ballot in 2026 or 2028. With increased toll revenues planned through Fiscal Year 2028-29, regional stakeholders are afforded time to assemble a funding measure that will help operators achieve financial sustainability long-term and transform the regional transit network."

Writing in opposition, the Bay Area Council writes "Bay Area residents' ability to pay for improvements is not limitless, and they deserve a more cost-effective, efficient, seamless, and in some cases safer transit system. You have called for that, the Governor has called for that, the Budget Chairs have called for that, the Bay Area Caucus has called for that, and the Bay Area Council has pushed hard for that. We appreciate that some accountability measures were included in the budget deal.

Before we can support new taxes, tolls or fees to support transit, we need to see the agencies do the hard work to make their systems safer, most cost effective and more seamless. This is work that needs to be done now, at a very fast pace. While we acknowledge this work by the agencies will be painful and complex, we have been exceptionally frustrated with the stubbornness to change and adapt."

Bridge Tolls in the Bay Area: In 2017 the Legislature passed SB 595 (Beall) Chapter 650, which authorized MTC to go to the voters to approve a toll increase from \$5 to \$8 for a measure referred to as Regional Measure 3 (RM3). RM3 was expected to raise \$4.5 billion for transportation projects across the region. MTC has only recently been given authority to spend RM3 as the funds were held in escrow pending a lawsuit questioning whether RM3 required a 2/3 vote of the Legislature. The California Supreme Court rejected the challenge in January of 2023, freeing up \$545 million that had been held in escrow.

RM3 passed with 54% of the vote in June of 2018. On January 1, 2019, tolls were increased by \$1 to \$6. Tolls were increased again to \$7 in January of 2022, and are set to increase again to \$8 in January of 2025. Should SB 532 pass, tolls in the Bay Area will increase to \$8.50 in 2024, and in combination with the expected \$1 increase due to RM3 in 2025 will be greater than \$9.50. While SB 595 only required a majority vote because MTC was required to receive voter approval before increasing tolls, this bill requires a two-thirds vote because it makes a continuous appropriation of toll revenues to MTC.

Increased transit use is necessary to meet the state's climate goals. Declining public transit use is problematic if the State is going to meet its climate change goals. In California, the transportation sector is the largest contributor of greenhouse gas (GHG) emissions and is

responsible for about 40% of the state's emissions with light duty passenger vehicles being the single largest contributor. The Legislature has set a number of goals to reduce greenhouse (GHG) emissions and address climate change. Providing alternative modes of transportation such as buses and light rail could significantly reduce the number of vehicle miles traveled (VMT) in California and associated GHG emissions. California has targeted a 15% reduction in VMT by 2050 as part of its larger strategy to reduce GHG emissions 80% from 1990 levels by 2050.

Staff comments:

This bill was very recently amended from being an elections bill to a transportation bill that is intended to address operating funding shortfalls that some transit operators in the Bay Area anticipate they will face even after the state budget provides near-term fiscal relief of \$5.1 billion statewide. According to the author's office, this bill is a work in progress and amendments are anticipated related to accountability and distribution of funds.

Unlike RM3, which had a detailed expenditure plan approved by the Legislature, this bill provides little direction to MTC about how to allocate the revenues provided by the \$1.50 toll increase aside from prioritizing "averting service cuts for transit operators that serve the highest number of transit riders." The author's office may wish to give MTC less discretion about how to allocate funding to eligible transit operators and may wish to prioritize allocating funding in a way that is consistent with recent state actions in SB 125, the transportation trailer bill that accompanied the transit relief provided in the budget act. Specifically, SB 125 seeks to hold transit agencies accountable for using the additional revenues to maintain and increase existing service levels and states the intent to provide funding (1) to transit operators to address operational costs until long-term transit sustainability solutions are identified; (2) assist transit operators in preventing service cuts and increasing ridership; (3) prioritize the availability of transit for riders who are transit dependent; and (4) prioritize transit agencies representing a significant percentage of the region's ridership.

The author's office also could establish in the bill outcomes that it would like to see achieved with the additional funds, such as requiring transit agencies that receive the funds to develop ridership improvement strategies that focus on riders, such as coordinating schedules and ease of payment, and improving cleanliness and safety, to improve the ridership experience.

In addition, under current law, BATA is authorized to issue revenue bonds backed by all sources of toll revenue deposited in the Bay Area Toll Account. This bill adds the \$1.50 toll increase to the code section that specifies all the sources of revenue that constitute collateral for bonds issued by the authority. While the intent of the bill is for the revenue from the \$1.50 toll increase to fund transit operations, as drafted, the increased revenue from the toll increase would be pledged to back future revenue bonds issued pursuant to this section in accordance with the existing structure for all of the authority's bond issuances. The author may want to consider amendments that offer an assurance of legislative intent that the revenue from the \$1.50 increase is intended to be fully dedicated to operations costs.

Prior legislation:

SB 595 (Beall), Chapter 650, Statutes of 2017 required BATA to place a toll increase measure, known as Regional Measure 3, on the 2018 ballot in the 9-county Bay Area region, that allowed

BATA to increase base toll rates, directing the revenues to MTC for allocation to a variety of transportation capital projects, including public transit capital projects.

SB 916 (Perata), Chapter 715, Statutes of 2003 defined BATA as a separate entity from MTC but with the same governing board, and made BATA responsible for the programming, administration, and allocation of toll revenues from the state-owned toll bridges in the San Francisco Bay Area, including toll revenues raised by state action.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Transportation Commission
Alameda-Contra Costa Transit District
California State Council of Service Employees International Union (SEIU California)
California YIMBY
City of Berkeley
City of Oakland
City of Oakland Mayor Sheng Thao
Common Ground California
East Bay YIMBY
Grow the Richmond
Housing Action Coalition
How to ADU
Mountain View YIMBY
Napa-Solano for Everyone
Natural Resources Defense Council (NRDC)
Northern Neighbors
Peninsula for Everyone
Progress Noe Valley
San Francisco Bay Area Rapid Transit District (BART)
San Francisco YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Seamless Bay Area
Sonoma County Climate Activist Network
Spur
Streets for People Bay Area
SV@Home Action Fund
Transform
Urban Environmentalists
YIMBY Action

Opposition

Bay Area Council

Analysis Prepared by: Farra Bracht / TRANS. / (916) 319-2093