

*Ohio Turnpike and Infrastructure Commission
Proponent Testimony - Senate Bill 162*

Jerry N. Hruby
Chairman

2021

Ferzan M. Ahmed, P.E.
Executive Director

**Senate Transportation
Committee**

Wednesday, June 16, 2021



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Ohio Senate Transportation Committee
Testimony of Ferzan M. Ahmed, P.E., Executive Director
Ohio Turnpike and Infrastructure Commission
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INTRO

Chair Kunze, Vice Chair Reineke, Ranking Member Antonio, and members of the Committee, my name is Ferzan Ahmed, and I am honored to serve as Executive Director of the Ohio Turnpike and Infrastructure Commission.

Thank you for the opportunity to present testimony in support of Senate Bill 162, sponsored by Senator Bill Reineke. As you may know, Senator Reineke also represents the General Assembly as a Member of the Commission and we are grateful for his legislative efforts and support. Before I go into the specifics of this legislation, I'd like to briefly discuss the effect the pandemic has had on our operations.

PANDEMIC TRAFFIC & REVENUE

Currently in our 66th year of operation, we are fiscally sound although toll revenue was negatively impacted by the COVID-19 pandemic in 2020.

At the height of the pandemic in April 2020, Vehicle Miles Traveled (VMT) reached a low point with a decline of 68.2 percent. However, commercial vehicle miles traveled remained about the same as 2019. The net effect was a decrease in toll revenue of approximately \$26.5 million or 8.6 percent. In addition, our concession revenues from Service Plazas were down by \$5.4 million or 31.4 percent and investment revenues were down by \$11.3 million or 59.2 percent. The total financial impact of the pandemic was \$40.2 million. We were able to offset some of these losses by refinancing existing debt, instituting a hiring freeze and making some operational adjustments that resulted in a total savings of \$21.3 million. We were also fortunate to receive approximately \$3.4 million in federal Coronavirus relief funds.

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REVENUE

As you know, the Ohio Turnpike does not receive either federal gas tax money or money from the General Revenue Fund.

The Commission's main source of revenue is from tolls and that is why we're here today in support of the bill that seeks to protect our toll revenue while at the same time provides privacy protections for our customers.

Our current system of toll collection was implemented in 2009. It's now at the end of its useful life and the Commission prepared for this eventuality with a strategic plan that was adopted by the Commission in December of 2017. The strategic plan included a survey in which 14,000 of our customers were asked if they supported the removal of toll gates to allow drivers to travel through the toll plazas without stopping. Eighty-nine percent of the 14,000 people surveyed supported that modification. To fulfill that strategic plan, the Commission is in the midst of constructing its new electronic toll collection system, which is scheduled to be completed and ready to "go live" in the spring of 2023.

In 2020, the Commission collected \$281 million in tolls with \$211 million collected by E-ZPass and \$70 million from cash or credit card. From 2023 through 2032, it is estimated that the new toll collection system will process a total of approximately \$4.2 billion in tolls. Our current system is a gated system, which means that travelers entering and exiting the turnpike must first stop at a gate. There are three different types of toll systems in use across the nation: The first is the gated system that we currently have. The second is known as All Electronic Tolling (AET), which does not have either gates or toll collectors. In this system, tolls are collected through either an E-ZPass transponder or by billing a customer who is identified by equipment that reads license plates. The third system is known as Open Road Tolling (ORT). This system uses aspects of both AET and gated systems.

The Ohio Turnpike's new system will be the Open Road Tolling System. Under this system, customers with an E-ZPass transponder will be able to drive all the way from Pennsylvania to Indiana (and vice-versa) without having to stop. People entering and exiting the turnpike in

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between will have the option to slowly enter and exit without stopping. Customers without an E-ZPass will have the option to take a ticket and pay cash or use a credit card. The system will also have the ability to read license plates and bill customers who use the E-ZPass lanes without an E-ZPass transponder.

The reason we chose this system instead of AET is because approximately 65 percent of our customers currently use E-ZPass, which means there is the potential for us to bill 35 percent of customers. Many of those customers are from another state and receiving payment from them may require collections. This has been the experience of other toll roads. In our case, with 35 percent of customers paying cash, all-electronic tolling would have meant that some of our \$70 million in cash payments would either be late or never received.

SAVINGS

With the new system, the Commission estimates a savings of approximately \$257 million in operating costs over 30 years. This is because modernization will result in increased electronic tolling, and a reduction of seven toll plazas and entry gates. The capital implementation cost for this plan is approximately \$230 million.

The estimated savings in operating costs will result from the reduction in the number of Toll Plazas from 31 to 24, the addition of automatic toll collection machines at 10 Toll Plazas, the elimination of toll gates on entry and a projected increase in *E-ZPass* usage.

These cost savings include a reduction in utility and maintenance costs at the closed toll plazas as well as a gradual reduction in toll collection staff. The Commission will accomplish the reduction in toll collection staff through attrition and relocation while preserving enough jobs to be able to collect cash and process credit card transactions for customers who are not enrolled in *E-ZPass*. As indicated earlier, we currently collect about \$70 million in tolls from customers who pay cash or use a credit card.

Construction began in the 4th quarter of 2020 and will conclude in the 4th quarter of 2022. Operation of the new toll system is scheduled for deployment in the Spring of 2023.

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Our new Toll Collection System provides a way to process unpaid tolls using license plate lookup when we fully implement it in early 2023. This system, which will photograph license plates and send a bill to the customer, will be needed to ensure that we can collect from customers who travel through ungated *E-ZPass* lanes without a valid *E-ZPass* transponder.

This is why we need your help in passing legislation. Senate Bill 162 allows the Commission to work with the Ohio Bureau of Motor Vehicles (BMV) to require vehicle owners to pay any (excessively) delinquent tolls they may incur by either intentionally or inadvertently passing through our new Open Road Tolling Lanes. A violation may also occur if a driver passes through an ungated toll plaza lane without a valid E-ZPass transponder. The Commission will need to mitigate toll revenue loss and SB 162 is an excellent remedy to what would be a substantial loss of revenue without it.

Our new relationship with the BMV, if authorized, will resemble that of municipalities and courts that seek the collection of unpaid fees and fines. This is the same authority the legislature afforded to ODOT in the 130th General Assembly with the passage of House Bill 533 and Senate Bill 335 in anticipation of tolling the Brent Spence Bridge. This authority is necessary for the implementation of Open Road Tolling (ORT) and eventually, an AET system.

In order to satisfy our customer's anticipated and rightly desired expectations with respect to this new authority, Senator Reineke's proposed legislation will:

- Protect the customer's due process rights for contesting unpaid tolls or fees.
 - As proposed in SB 162, the final say for appeals for customers is to be held in the Cuyahoga County Court of Common Pleas with any appeals originating with the Commission as an administrative proceeding. Such an appeal process follows the recent line of Supreme Court of Ohio cases involving traffic camera cases, e.g., [State ex rel. Magsig v. Toledo, 160 Ohio St.3d 342, 2020-Ohio-3416](#). In those cases, "in-house" governmental administrative hearings were struck down on jurisdictional grounds. Accordingly, the legislation makes it clear that the

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Commission has exclusive original jurisdiction of disputes of invoices under division (A)(16) of section 5537.04 of the Revised Code, in an attempt to comply with the Magsig case. We want to ensure that the appeal process is clear to our customers and constitutionally permissible. The proposed legislation also:

- Specifies that the liability of unpaid tolls belongs to the registered owner/lessee of the vehicle, as well as the driver; and.
- Protects the personal identifiable information gathered by the Commission during the collection of tolls except for parties involved with the toll collection process, law enforcement or legal proceedings, or unless otherwise authorized by the owner of the information.

For a quick review of our proposal, we have attached a one-page document that summarizes all aspects of our request. This legislation will protect the Commission's ability to remain fiscally sound, by ensuring it has the ability to collect tolls, and prevent customers from abusing the new modernized system that has thus far been four years in the making.

Madame Chair and members of the Committee, I would be happy to answer any questions that you may have.

Purpose of Proposed Amendments

- Allows the Commission to work with the BMV to require vehicle owners to pay their delinquent tolls before they can register their vehicle. This relationship with the BMV will resemble that of municipalities and courts seeking the collection of unpaid fees and fines. This authority is necessary for the implementation of open road and all electronic tolling.
- Protects the customer's due process rights for contesting unpaid tolls or fees.
- Specifies that the liability of unpaid tolls belongs to the registered owner/lessee of the vehicle as well as the driver.
- Protects the personal identifiable information gathered by the Commission during the collection of tolls except for parties involved with the toll collection process, law enforcement or legal proceedings, or unless otherwise authorized by the owner of the information.

Summary of Proposed Amendments

4503.10 and 4503.12 – Application for registration or renewal.

- Provides authority for the BMV to receive notices from the Commission of a list of individuals with excessive unpaid toll payments, and to prohibit the registrar from accepting registrations until the registered owner of the vehicle pays their unpaid tolls and fees before they can complete their vehicle registration.

5537.04 – Authority and powers of turnpike and infrastructure commission.

- Requires Commission to adopt rules for issuance of unpaid toll notifications.
- Requires constitutional due process for disputing tolls and fees.
- Allows the Commission to hold administrative hearings before a hearing officer who determines liability for unpaid tolls and fees. Appeals from such hearing are subject to Revised Code Chapter 2506.

5537.041 – Notice of unpaid toll process. This new proposed section of 5537 identifies a process the Commission may use to recover tolls and costs by:

- Allows the Commission to provide notice to BMV of those owners/lessees with excessive outstanding tolls and fees.

5537.16 – Bylaws and rules - disposal of fines.

- Places liability on the necessary parties for the payment of tolls, fees, and fines on the driver or the registered owner of the vehicle.

5537.29 – Confidentiality. This new proposed section of 5537 serves to protect the privacy of all Turnpike customers.

- Authorizes the Commission to protect the personal identifiable information of Turnpike customers.