



METROPOLITAN  
TRANSPORTATION  
COMMISSION

Agenda Item 6c

Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
TEL 510.817.5700  
TDD/TTY 510.817.5769  
FAX 510.817.5848  
E-MAIL [info@mtc.ca.gov](mailto:info@mtc.ca.gov)  
WEB [www.mtc.ca.gov](http://www.mtc.ca.gov)

*Memorandum*

TO: Legislation Committee

DATE: February 10, 2012

FR: Executive Director

W. I. 1131

RE: S. 2006 (Lautenberg): Commuter Protection Act

**Background**

S. 2006 requires that tolls for passage on any bridge or tunnel on a federal aid highway must be “just and reasonable” and subject to review and regulation by the Secretary of the Department of Transportation (DOT). The bill further provides that the Secretary will establish regulations to define the term “just and reasonable,” to establish a process for determining whether tolls meet this standard, to prescribe “when appropriate” what the rate of tolls shall be, and to establish a process for filing an administrative complaint to challenge a determination made by the Secretary. Furthermore, the bill authorizes the Secretary or an administrative law judge to consider a complaint by “any person aggrieved by a toll increase” to hold an investigation, followed by a hearing on such to challenge. If a person is not satisfied with the outcome of that initial investigation, the bill authorizes him/her to challenge the determination in U.S. District Court. Finally, the bill requires the Comptroller General to evaluate the use of tolls by interstate authorities to maintain and improve surface transportation facilities and make recommendations to increase transparency and accountability of the funding decisions by those authorities.

**Recommendation: Oppose**

**Discussion**

The bill is a response to the Port Authority of New York and New Jersey's plan to raise tolls between the states - from \$8 to \$15 by 2015. Its scope, however, would reach far beyond the East Coast to toll authorities across the nation, including the Bay Area Toll Authority since the seven state-owned bridges under BATA's purview are part of the federal-aid system. This bill is problematic and ought to be opposed for several reasons:

- It would undermine BATA's tolling authority, as provided for in state law. This authority enables BATA to raise toll rates only if such an increase is necessary to protect bond holders, for instance, in order to repair a bridge in the event of a bridge failure. The law would likely be viewed as adding a significant degree of uncertainty to BATA's toll setting authority, which could result in a downgrade of BATA's bond rating resulting in significantly higher interest costs.
- The law would empower the DOT Secretary to define and determine whether tolls, anywhere in the U.S., are “just and reasonable.” Considering the large disparities in the cost of living in different parts of the nation, no one standard for toll rates could apply nationwide, and it certainly seems ill advised for the DOT Secretary to set the toll rates, which the bill provides “when appropriate.” Decisions on toll rates should be made by the state or local officials in charge of the toll facilities, not in Washington, D.C.

- The bill allows a single individual to challenge toll rates and, if unsatisfied by an initial review, to challenge that determination in U.S. District Court. This creates yet another level of risk and uncertainty in the toll setting process which would ultimately result in higher interest rates, not to mention untold legal costs in defense of the toll rates.

While it is reasonable for Congress to seek to ensure transparency in the toll setting process, toll rates, like local sales or gas taxes, should not be set at the national level. Considering Congress' unwillingness to raise the gas tax since 1993, providing autonomy to state and local agencies with respect to toll rates is of paramount importance as tolls are widely believed to be the most promising source of new revenue, whether through public-private partnerships or through public agency tolling efforts, such as our own regional express lane network.

For the reasons outlined above, we recommend an oppose position on S. 3006.

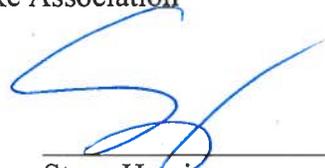
### **Known Positions**

#### **Support**

American Trucking Association  
AAA New York  
AAA Clubs of New Jersey  
American Highway Users Alliance  
American Motorcyclist Association  
Owner-Operator Independent Drivers Association

#### **Oppose**

The International Bridge, Tunnel and Turnpike Association



---

Steve Heninger