

**Bay Area Infrastructure Financing Authority  
(BAIFA)**

**November 17, 2021**

**Agenda Item 4b - 21 - 1372**

**Proposed BAIFA Toll Facility Ordinance Amendment**

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**Subject:**

Overview of proposed changes to BAIFA's existing Toll Facility Ordinance to enable tolling pilots, reduce violation penalties and define emergency powers; includes a description of the public hearing and outreach process staff will follow prior to BAIFA considering adoption of the amendment in early 2022.

**Background:**

In July 2016, BAIFA adopted a toll ordinance, as required by statute, so that it could enforce toll violations on the I-680 Express Lanes in Contra Costa County. BAIFA's toll ordinance specifies its tolling rules and violation enforcement practices. Since then, BAIFA has amended its toll ordinance twice to add new express lanes and change select tolling rules. Now, staff is proposing to amend the toll ordinance to enable tolling-related pilots, reduce violation penalties and define emergency powers.

**Enable Tolling Pilots**

Staff proposes to amend the toll ordinance to enable pilots on BAIFA's express lanes to study alternate tolling, discount, and other policies and to test new technologies. BAIFA's first pilot would be the means-based Toll Discount Pilot on the I-880 Express Lanes in Alameda County. Staff proposes this pilot in response to public comment received during previous toll ordinance amendments about equity and affordability of express lanes. BAIFA would provide a 50% discount off standard toll rates to Bay Area residents who apply for the discount, meet income requirements and have a FasTrak® account. (See BAIFA Agenda Item 4a for more information.) The revision would allow BAIFA to study a variety of pilots that may be of interest over time, such as new technology not currently contemplated in the toll ordinance that would automatically provide toll discounts to verified carpools.

**Reduce Violation Penalties**

In October 2021, BATA adopted Resolution No. 52, revised which reduced violation penalties from \$25 to \$5 for the first notice and from \$45 to \$10 for the second notice. (This reduced the

total penalty amount from \$70 to \$15 for the first and second notices combined.) BAIFA's current toll ordinance includes a penalty structure for express lane violators (i.e., users of the express lane who do not have a FasTrak<sup>®</sup> account) that is based on BATA's structure prior to the October 2021 reduction. For consistency with BATA bridges, staff proposes to match BATA's reduced violation penalty structure. BAIFA and the other Bay Area express lane operators agree that express lane violation penalties should be consistent with each other and the bridges and the other express lane operators are likewise taking action to reduce their violation penalties. Each operator has a different process for taking this action because of variations in how the ordinance of each is written. Further, BAIFA and the other express lane operators are still coordinating on the date the reduction would take effect, which staff will present to BAIFA for consideration in a future meeting. Meanwhile, as a placeholder, the amendment would make the reduced penalties effective as of the date the amended ordinance becomes effective. See the timeline below.

### **Define Emergency Powers**

Currently, BAIFA's toll ordinance has no explicit provision to enable BAIFA to take quick action to adjust tolling rules in response to exigent circumstances, such as the action taken to stop tolling between March and May 2020 due to the COVID-19 pandemic. Staff proposes defining the authority the Executive Director may take to respond to emergencies.

### **Public Outreach Process and Public Hearing**

Adoption of the toll ordinance amendment involves a process to inform the public about proposed changes and to listen to their input. Public comment provides important direction to staff on which tolling rules need to be monitored and analyzed, to make sure they perform as planned, or reviewed in the context of the regional network. In addition, staff will use the public outreach process for the toll amendment to gather feedback from the general public on the Toll Discount Pilot Project to complement recent customer research. (See Item 4a.)

Staff recommends the following approach and schedule for soliciting public comment on the amendment, based on statutory requirements and MTC's Public Participation Plan:

- 30-day public comment period to start upon newspaper publication of BAIFA's intent to amend its toll ordinance
- Social media campaign about proposed changes to the toll ordinance and about the Toll Discount Pilot and how to give feedback
- Website information about proposed changes and the pilot and how to give feedback
- Email(s) to local government agencies and community-based organizations to alert them and their constituents
- Public hearing at January 26 BAIFA meeting
- Adoption vote at February 23 BAIFA meeting
- Toll ordinance amendment effective 30 days after adoption

After adoption, staff plans an outreach campaign in partnership with FasTrak® to encourage express lanes customers to sign up for FasTrak® and announce lower violation penalties. Staff plans a separate outreach campaign to encourage income-qualified drivers on I-880 to enroll in the Toll Discount Pilot when it launches and explain how to use express lanes. Staff will return in spring 2022 with more details.

**Issues:**

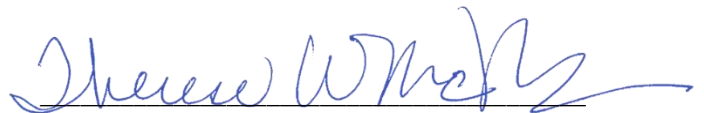
Alternatives for the effective date of the reduction in toll violation penalties are still being developed for BAIFA's consideration and will be presented at a future meeting.

**Recommendations:**

This item is for information only.

**Attachments:**

- Attachment A: Presentation



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