

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **Toll Roads: A Problem or a Solution?**

Toll roads represent an old idea made new. Turnpikes, a term taken from a barrier used to block access to a road until a toll was paid, were used in colonial America to improve surface transportation between cities when traveling overland was a difficult alternative to more efficient and comfortable water routes.

As federal funding for highways became widely available, the Federal Aid Highway Act of 1921 imposed a ban on tolls for roads constructed with federal funding. A 1938 study by the U.S. Bureau of Public Roads, "Toll Roads and Free Roads," considered the possibility of financing a national highway system with tolls, deciding it was not feasible at the time. The Interstate Highway System, created by the Federal Aid Highway Act of 1956, offered toll-free roads financed by a federal tax on gasoline, credited to the newly established Highway Trust Fund.

About a quarter century ago, a new generation of toll roads began as the interstate system was built out, federal gas tax revenues stagnated, and private investment, especially from international funds, became available for such projects. Blockbuster projects included the Indiana Toll Road, built by the public in the 1950s and leased to a partnership of Spanish construction firm Cintra and Australian toll road operator Macquarie in 2006 for \$3.8 billion, and the Chicago Skyway, leased to the same firms in 2004 for \$1.8 billion.

The U.S. experience has been mirrored elsewhere. During the 1990s, according to the World Bank, developing countries increasingly turned to the private sector for construction, management, and maintenance of toll roads. Between 1990 and 1999, \$61 billion in private investment was committed to 279 projects in 26 developing countries, comprising 21,355 miles (34,368 km) of toll highways, bridges, and tunnels, the World Bank reports.

But recently significant problems have arisen for some high-profile toll roads: some members of the public are having growing concerns about allowing private interests to profit from tolls on ordinary citizens, as well as expressing fear that state transportation bureaucrats might be bamboozled by Wall Street sharks. These concerns are being borne out in the following cases:

- California's San Joaquin Hills toll road—which has consistently fallen below its ridership and revenue projections, threatening its ability to keep up with debt payments—is restructuring at least half the \$2.2 billion in bonds sold to build the highway.
- The ITR Commission, the partnership of Cintra and Macquarie that paid \$3.8 billion in 2006 to operate the Indiana Toll Road for 75 years, filed for Chapter 11 bankruptcy protection in September 2014, reigniting debate about the merits of privatizing roads.

Amid growing backlash against toll roads, Texas voters approved a constitutional amendment in November 2014 by a landslide 4-1 margin to give the Texas Department of Transportation (DOT) about \$1.7 billion a year in additional funding—with the caveat that the new money not be used on toll projects.

Toll roads are a niche product in the United States: revenue from tolls accounts for only about 5

percent of spending on major highways. This is a stark contrast with nations such as France, where the majority of motorways now carry tolls. A few state departments of transportation, however, are already demonstrating that tolls are acceptable to the public—if the tolled roads add significantly to road capacity. In the 14 states with major toll road expansion programs, tolls are already funding more than 10 percent of urban expressway miles; in the large and fast-growing states that have a great need for new road capacity, such as Texas and Florida, tolls are funding more than 25 percent of new capacity.

In addition, the private sector's role in investment and development is increasing. More than 10 percent of the toll roads developed since 1992 have involved private investment; this is particularly the case with greenfield projects. Wisconsin, which has no toll roads now but is facing enormous shortfalls in transportation funding, is planning a study of possible tolls—something former Democratic Governor Jim Doyle once said would happen “over my dead body.” Incumbent Governor Scott Walker, who says he is not a fan of tolls, has allowed this study to go forward. A November 18, 2014, article in the Milwaukee Journal Sentinel says a planned toll study would gather odometer readings when people register their vehicles each year, a possible move toward a fee based on how many miles people drive—a tax on vehicle-miles traveled is widely admired by transportation professionals as broader and more equitable than tolls because it would apply to all roads.

Tolling the Interstate Highway System is the holy grail of financing options for transportation officials because it would open up potentially thousands of new miles to tolling with little political effort on their part. A 2014 Congressional Research Service study, “Tolling U.S. Highways,” estimated that tolling the untolled urban interstates at rates that approximate the current averages for tolled interstate facilities might produce \$37 billion in annual revenue, nearly as much as the Highway Trust Fund now receives from motor fuel taxes.

This, in turn, has the potential to leverage considerably greater investment, allowing states to spend these additional revenues to improve other key interregional highways, and possibly transit as well.

In the Dallas region, an area where toll road development is pervasive, the Wall Street Journal in October 2014 noted a backlash to conversion of part of U.S. Highway 75, a major north-south artery, to tolls. It also reported opposition to development of a new toll road northeast of Dallas by a private company, which would make it the only road in the United States fully built, owned, and operated by a private company. That private company, the Texas Turnpike Corporation, even has the power of eminent domain to seize land.

Inspired by the reaction, the state Republican Party amended its platform last year to add language hostile to toll roads. “A large segment of our party believes in having free access to transportation,” Steve Munisteri, chairman of the Republican Party of Texas, told the Wall Street Journal.

A New York Times blog by Vikas Bajaj last October raised another perspective—that tolls would not be necessary if Texas had raised the gasoline tax from its 1991 levels. Another perspective comes from Tea Party activists, for whom toll roads represent a government power grab.

What is the public's view? A survey last year of 1,503 Americans by the Mineta Transportation Institute in San Jose, California, showed that a majority of people would support higher taxes for transportation if the use of the revenue were properly explained.

A gasoline tax increase of 10 cents per gallon was supported by 69 percent of respondents, while a mileage tax, similar to a trip-specific toll, was supported by 43 percent, on the condition that the toll would vary according to the vehicle's level of pollution.

And support for a mileage tax varying by the vehicle's pollution level has grown over succeeding years of the survey, from 33 percent in 2009 to 43 percent in 2014.

Toll roads typically are a one-time fix in most regions. However, places where tolls are central to development and growth plans—such as central Florida and Dallas—take a different approach.

Central Florida, a multicounty area around Orlando, has an extensive highway network extending 108 miles (174 km) that includes five toll roads, with a sixth planned. The Florida Department of Transportation's District 5 in central Florida accounts for more than 40 percent of all toll roads in the state, and nearly two-thirds of highway travel in Orange County, the central county of the region, and neighboring Osceola County is on toll roads.

For one of the most tolled regions in the United States, the effect of toll roads on travel and residential development so far seems minimal. The average amount of driving per capita is more than 30 miles (48 km) per day, second only to Houston among large regions. The average cash toll rate for the multicounty system is 15.3 cents per mile, and the average electronic toll rate is 13.4 cents per mile, comparable to rates on other toll roads in the United States.

A study on the elasticity of demand in the 2013 General Traffic and Earnings Consultant's Annual Report of the Orlando-Orange County Expressway Authority found that the 14 percent toll increase in October 2012 resulted in only very small reductions in driving among Orlando motorists. Along the two roads that had no other changes to complicate the comparison, state routes 408 and 417, the analysts found that each 10 percent increase in toll rates had a negligible effect on traffic, reducing traffic by only 1.4 percent. In fact, two toll roads serving growth corridors, state routes 429 and 414, were excluded from the elasticity calculation because they experienced increases in traffic over the period—a modest gain of 0.7 percent on S.R. 429 and a robust 13.7 percent on S.R. 414—despite the toll increase, reflecting underlying traffic growth due to new development.

## **Effects on Sprawl**

With limited funds available in Florida for construction and maintenance, it is expected that more roads will be financed through user fees or tolls. However, planners worry that toll roads could lead to perpetuation of the sprawling patterns that most citizens dislike.

Research on toll roads in Tampa by Sisinnio Concas, a professor at the University of South Florida's Center for Urban Transportation Research, found that the improved access delivered by new toll roads to neighborhoods in the suburbs of Tampa and Miami increased land and property prices in both areas by about 5 percent. So the increased cost of driving was more than compensated for by the additional access to the affected neighborhoods.

The Orlando region metropolitan planning organization MetroPlan has been working with a leadership group called myregion.com, which undertook a regional growth visioning project called "How Shall We Grow?" that involved a large number of residents, officials, and civic and business leaders. The project resulted in a call for the redirection of the current pattern of land use and automobile dependence, which they thought was unsustainable for the future of central Florida.

Instead, they preferred a sustainable land use forecast for 2040 developed by MetroPlan that they said will demonstrate an environment with less driving, reduced suburban sprawl, and greater use of the new regional rail system. The forecast, incorporated into the regional transportation plan by MetroPlan, emphasizes compact development along corridors, infill development and redevelopment, mixed land uses, an improved jobs-to-housing balance within compact radiuses for urban travel, and development patterns that support multimodal transportation. Planned road

expansion, accomplished primarily with toll roads, makes such roads part of the region's sustainability vision.

In Texas, the North Texas Tollway Authority operates 111 miles (179 km) of toll roads, covering four roads, two bridges, and one tunnel. In 2013, the last full year of reporting, annual traffic on these roads totaled 610 million vehicles and revenues were \$525 million, generated by an average toll of 83 cents per trip.

Reliance on toll roads has been increasing for decades as the gasoline tax was stuck at 1991 levels—in terms of cents per gallon, not percentage—in Texas and nationally, thanks to Congress having kept the federal gas tax unchanged. In 2010, the North Central Texas Council of Governments projected that the combined state and federal fuel tax and vehicle registration fee collected in Texas would decline from 2.4 cents per vehicle-mile traveled in 2009 to 1.4 cents in 2030, with the net revenue to the Texas DOT declining from 1.6 cents to 0.7 cents per mile.

Toll roads bring market demand to the process of selecting worthwhile road projects, as well as badly needed funds. States and localities need improvements to serve existing and planned travel needs. Where these two needs intersect—needed projects matched by tolls to finance them—is the sweet spot for public agencies and private investors. It is important that planners first determine the critical needs, then shop for toll funding to support them, either through private ventures or possibly through public toll agencies. That ensures that the selected facilities will serve broader goals for growth and economic development. A clear expression of priority needs may also help expand support for public funding for transportation facilities and ensure that the money is put to the best uses.

The link to development plans seems central to the smart expansion of toll roads. With federal transportation planning requirements calling for fiscal constraint, planners need to live within the revenues expected rather than the revenues they desire.

Planners at the North Central Texas Council of Governments (NCTCG) recognized this fact in 1998. They noted in a long-term plan that year that “toll roads play a critical role in the transportation plan, both as a source of funding and added system capacity.”

Today, NCTCG planners recognize that the funding available is substantially short of what might be considered needed investment. In its Mobility 2035 plan, the region's long-range transportation plan, and updates made in 2013, the NCTCG noted that in addition to expanding the network to accommodate growth trends, a major emphasis will be to “promote growth management strategies that strike a greater balance between land use and transportation. Programs and projects aimed at eliminating or reducing vehicle trips, shortening trips that would still occur, and utilizing the capacity of our system to its fullest are major recommendations.”

Urban Land Magazine

By Robert Dunphy

May 28, 2015

Robert T. Dunphy is a consultant and teaches in the Georgetown University Master of Professional Studies in Real Estate program. He is an emeritus fellow of ULI and the Transportation Research Board.

