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# ON THE BALLOT

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## The Crescent City Connection Toll Proposition

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### INTRODUCTION

Voters in Jefferson, Orleans and Plaquemines parishes will decide whether to renew tolls on the Crescent City Connection bridge (CCC). If approved, tolls would continue for the next 20 years, until December 31, 2033.

Toll revenues could be used only on the bridge and “along” the rest of U.S. 90Z, which includes a portion of the Pontchartrain Expressway and all of the Westbank Expressway. The revenue would be dedicated solely to the following purposes: “operations, maintenance, landscaping, grass cutting, trash pickup, functional and ornamental lighting, policing, inspections, motorist assistance patrols and capital projects on the bridge, approaches and roadways.”

If voters reject the measure, tolls on the bridge will expire at the end of 2012.

### BACKGROUND

Currently, the bridge and the Algiers, Gretna and Chalmette ferries are operated, maintained and policed by the Crescent City Connection Division (CCC Division) of the Department of Transportation and Development (DOTD). The CCC Division is also responsible for the maintenance, landscaping, lighting and policing of approximately 13 miles of roadways and approaches to the bridge, including the Westbank Expressway, Mardi Gras Boulevard, Shirley Drive, a part of Gen. DeGaulle Drive, as well as U.S. 90Z to the Broad Street overpass on the east bank.<sup>1</sup>

The CCC Division receives its revenue from two main sources: tolls on the CCC and a special transportation fund known as State Highway Fund No. 2.<sup>2</sup> The tolls, which have been in place since 1989, are currently set

at \$1 for drivers paying cash and 40 cents for drivers using electronic toll tags. They generated \$20.7 million in fiscal 2011, which accounted for 80% of the CCC Division’s total budget.<sup>3</sup>

In the past, the CCC Division has spent only a small share of toll revenues on the bridge itself. In its April 2011 report, *Over the River: The Future of the Crescent City Connection Bridge and Ferries*, BGR calculated that for every dollar of bridge tolls paid in fiscal 2010, only 19 cents went to maintaining and policing the bridge. The largest slice, 32 cents, went to operating and maintaining the ferries; 16 cents went to collecting and administering the tolls; and 5 cents went to beautification services, such as grass cutting and trash pickup, on surrounding roadways. Another 9 cents went to debt service and 6 cents to various capital projects, with the remaining 13 cents going to a capital reserve fund.<sup>4</sup>

The tolls on the bridge are scheduled to expire at the end of the year.<sup>5</sup> In response to this looming deadline, the Legislature enacted two laws addressing the future of the CCC and the ferries. One addresses the end of the existing toll program; the other will govern the new toll program if voters approve it.

### The Transition Away from Existing Tolls

Act No. 866 eliminates the CCC Division effective January 1, 2013, and places the responsibility for administering the bridge and operating the ferries with the DOTD.<sup>6</sup> The act also ends the dedication of State Highway Fund No. 2 to the bridge and ferries, redirecting the revenue into the state’s Transportation Trust Fund (TTF) for use statewide.

The act also provides for the disposition of the CCC Division’s remaining funds. It transfers funds remaining at year end to a Transition Fund. The DOTD can

use the first \$4 million for the ferries. The balance will be transferred to the Regional Planning Commission (RPC) for lighting of the east bank and west bank approaches to the bridge, as well as improvements to ingress and egress points and lighting, maintenance, grass cutting and landscaping needs on the Westbank Expressway and its connecting arteries. Interestingly, no provision is made for the bridge itself.

### **The New Toll Proposition**

Act No. 865 puts the issue of renewing the tolls before voters. It also sets forth legislation setting the tolls, penalizing motorists who commit toll violations, prescribing the use of toll funds and directing some non-toll revenue to the Algiers Ferry. The legislation is contingent upon approval of the toll proposition by voters in Jefferson, Orleans and Plaquemines parishes.

Under the legislation, tolls would remain at their current level. However, the rate would be subject to change by the Legislature.

If voters approve the tolls, a minimum of \$10 million in revenue would be deposited each year into a capital projects fund. The Legislature could appropriate up to \$2 million of the remaining toll revenue for the State Police to compensate it for patrolling the bridge and the rest of U.S. 90Z. (The governor has directed the State Police to take over the duties of the CCC Police Department.) The Legislature could also appropriate an unspecified amount to the DOTD for “operations, maintenance, landscaping, grass cutting, trash pickup, functional and ornamental lighting, inspections, motorist assistance patrols and capital projects on the bridges, approaches and roadways along U.S. 90Z from Interstate 10 to U.S. 90, including ingress and egress points to the Crescent City Connection Bridge.” Any funds remaining after these appropriations would go to the capital projects fund. It should be noted that these dedications are subject to change by the Legislature.

Monies in the capital projects fund could be used to fund projects on a pay-as-you-go basis, as a match of federal funds or to support bonds. The legislation lists specific projects for which bond proceeds could be used: repainting the bridge; improving on-ramps and exits to

and from U.S. 90Z at Annunciation Street, Baratavia Boulevard, Tchoupitoulas Street and the MacArthur Drive Interchange; and rehabilitating the Harvey Tunnel. If funds were available after the financing of these projects, they could be used to finance additional capital projects on the bridge or the rest of U.S. 90Z.

The RPC would prioritize any additional projects. It would also serve as an advisory body on a wide range of operational and maintenance issues, and would have access to information on revenues, expenditures and the status of capital projects. It would advise the DOTD on setting non-commuter rates for the Algiers ferry.

The legislation would also provide funding for the Algiers-Canal Street ferry, but without using toll revenue. It would dedicate the equivalent of the portion of State Highway Fund No. 2 collected in Orleans Parish for the CCC Division to the ferry’s operations. Based on collections from the previous five years, the Legislative Fiscal Office estimates that the ferry will receive \$880,000 per year.<sup>7</sup>

The act would also authorize the DOTD to privatize, franchise or enter into contracts for toll collection and operations and maintenance. However, the DOTD would have to act on this provision before July 1, 2014, or lose the right to do so.

### **ANALYSIS**

The new toll program would provide a significant and dedicated source of revenue for operating, lighting, maintaining and repairing the CCC. At least initially, the toll revenue would allow the DOTD to maintain the bridge and continue to provide the same level of services currently provided by the CCC Division on the bridge and expressway.<sup>8</sup> It would provide an amount of money for capital expenditures along U.S. 90Z similar to what typically has been available under the current toll program.<sup>9</sup>

If voters do not renew the tolls, the CCC would have to compete, to an extent it has not before, with other transportation arteries throughout the state for operating, maintenance and capital funds. The DOTD has in-

licated that it will continue to inspect the bridge and provide regular maintenance and repair.

As noted above, Act 866 allocated all but \$4 million of the Transition Fund for lighting bridge approaches and for maintenance and landscape-related expenses for the Westbank Expressway and its connecting arteries. Based on current state practice, the cost of lighting the bridge will immediately fall mainly to the City of New Orleans.<sup>10</sup> The cost of lighting the rest of U.S. 90Z will fall on New Orleans, Gretna, Westwego and Jefferson Parish once the Transition Fund is exhausted.

According to the DOTD, the CCC Division's lighting costs, including electricity, materials, personnel and maintenance, total approximately \$800,000. The costs for the decorative lighting on the CCC itself are far lower, at just \$68,000 in 2011.<sup>11</sup> The remaining expenditures go to lighting U.S. 90Z. The DOTD does not have a breakdown of these costs on a jurisdictional basis.

The DOTD has stated that eliminating tolls would lead to less frequent grass cutting, less frequent sweeping and, in some locations, less frequent trash pickup.<sup>12</sup> Landscaping services would be discontinued altogether. However, the DOTD will continue to fund regular maintenance and inspections, and Motorist Assistance Patrols will remain at the same level.<sup>13</sup>

The size of the Transition Fund is somewhat uncertain. The DOTD projects that the CCC Division will have \$10 million to \$15 million in surplus funds at year end. However, the Legislative Fiscal Office estimates that at the end of 2012 the Transition Fund will contain \$10.3 million, leaving the RPC with \$6.3 million if the DOTD capitalizes the ferries.<sup>14</sup> If these remaining funds were dedicated solely to paying for lighting, BGR estimates that they would be enough to cover those costs for nearly eight years.

The governor has ordered the State Police to assume responsibility for patrolling the bridge and the rest of U.S. 90Z regardless of whether voters approve the new tolls. Ordinarily, this responsibility would fall to the local police, unless the bridge is located in an unincorporated area. However, in this case the CCC Police will

be dissolved, and the State Police intends to absorb the CCC Police Department's officers into its force for the purpose of patrolling U.S. 90Z.

### **Arguments For and Against**

One argument in favor of the tolls is that they provide a dedicated source of funding for the bridge and U.S. 90Z. Over 20 years, they would also, if properly directed, provide at least \$200 million for capital projects on the bridge and its approaches, some of which would address high priorities for the region. It is unclear whether the DOTD would or could provide a similar level of funding to the bridge and connecting roadways without the tolls.

Without the tolls, the CCC and the rest of U.S. 90Z will have to compete, to an extent it has not before, with other high-priority roads and bridges throughout the state for funding. The DOTD estimates current capital needs on all state bridges and roadways at approximately \$12 billion, and toll proponents hold out the specter of an unsightly, deteriorating hulk across the river if tolls end.

It is undeniable that the state has limited funds to meet its infrastructure needs and that eliminating the tolls carries a certain level of risk. To some extent, funding for capital projects would be at the discretion of the DOTD and susceptible to political pressure.

While the lack of a dedicated funding source creates risk, it is an acceptable one. The DOTD has categorically stated that it will inspect, maintain and repair the bridge and U.S. 90Z. Because of the bridge's importance, the upkeep of the CCC is likely to remain a high funding priority. We note that the bridge went without tolls for 25 years, from 1964 to 1989. During that time, the state supported the bridge and connecting roads out of general state transportation funds and State Highway Fund No. 2. It could support it again.

Furthermore, federal law requires regular inspections of bridges, and sets inspection standards for states.<sup>15</sup> A recently signed law imposes more rigorous inspection standards and new penalties for noncompliance with the standards by requiring the U.S. Department of

Transportation to redirect federal funds from the state toward the proper inspections.<sup>16</sup> If the federal Department of Transportation finds that a bridge has not been “properly maintained,” it must notify the state, give it 90 days to remediate the problem and, failing that, withhold funding to the state until the bridge “shall have been put in proper condition of maintenance.”<sup>17</sup> And, as part of its inspection procedures, the federal government requires that structural or safety-related deficiencies be resolved immediately.<sup>18</sup>

At any rate, the DOTD has stated unequivocally that it intends to regularly inspect and maintain U.S. 90Z.<sup>19</sup>

Another argument in favor of tolls is that they allow for an enhanced level of services, such as decorative lighting and additional beautification services. The CCC Division claims that it currently provides grass-cutting, sweeping and trash pickup at a higher level than DOTD normally provides, and that it will cease the supplemental services if tolls are not renewed. Toll opponents dispute the level of service currently provided, leading to questions of whether these services would be robust under a new toll program.

The most significant enhancement provided by the CCC Division, a dedicated police force stationed at the bridge, will remain regardless of whether the new toll program is implemented. The State Police has clearly stated that it intends to maintain the current level of service on the CCC. If voters reject the tolls, policing costs will be paid from the State’s General Fund. However, if voters approve the new tolls, the Legislature can transfer up to \$2 million of toll revenue to the State Police to defray its costs.

Finally, approval of the tolls would ensure a minimum level of funding for the Algiers ferry. The funding from the collection of Orleans Parish vehicular license taxes for the ferry line is estimated at approximately \$900,000. This would cover nearly 30% of the line’s 2011 expenditures. It would also recoup for the region a part of the funding stream that will be lost when the dedication of State Highway Fund No. 2 to the CCC ends. Without the allocation to the ferry, the money could be used anywhere in the state.

There are also disadvantages associated with the imposition of tolls. The tolls would cover some expenses that the state would otherwise pay. These include basic maintenance, repairs and capital expenses that the state pays elsewhere. By paying tolls to support these basic expenses, drivers in the New Orleans area will relieve the state of the costs associated with these services. As a result, they will indirectly subsidize transportation infrastructure in the rest of the state. And, since the Legislature can appropriate up to \$2 million of toll revenue to the State Police for services it will provide regardless of whether tolls are renewed, drivers will even subsidize the state’s general fund.

Toll opponents maintain that tolls constitute double taxation. In their view, drivers crossing the bridge already pay taxes and fees into the TTF for roads and bridges – including U.S. 90Z.

The proposition itself creates some unnecessary problems. The area in which toll revenue can be expended is overly broad and unnecessarily vague. The proposition before voters refers to the bridge, approaches and roadways “along” U.S. 90Z. It is unclear what geographical limitations are imposed by the word “along,” and there is no clear definition of what constitutes approaches and roadways.

The accompanying legislation allows the Legislature to appropriate toll funds for capital projects on a pay-as-you-go basis. The bonding authority within that legislation lists specific bridge-related projects, including painting the downriver span, improving ingress and egress at certain locations, and rehabilitating the Harvey Tunnel. It allows the Regional Planning Commission to prioritize other projects, funds permitting. But without a clear picture of where toll money can and cannot be spent, there is a risk that revenues could be used to support projects completely unrelated to the bridge.

Another area of ambiguity is the fate of four unfinished capital projects eligible for funding from excess toll revenues under the current toll program.<sup>20</sup> It is unclear whether these projects could be funded with future toll revenue. DOTD estimates the cost to complete these projects at \$183.2 million.<sup>21</sup>

Another concern is the lack of information on the lighting costs that each jurisdiction will have to assume without new tolls. This information is necessary for voters to understand the fiscal impact on local governments of not renewing tolls.

An underlying concern with the proposition is the scope of the electorate deciding it. The measure allows voters in Plaquemines Parish to participate, despite the fact that no portion of the roadway in question is contained in that parish and no costs resulting from a rejection of the measure would fall to that parish's government. Furthermore, only 3% of drivers paying the toll with toll tags currently reside in Plaquemines, compared to 46% in Jefferson and 31% in Orleans.<sup>22</sup> Plaquemines even lags drivers in Lafourche, who have 8% of the tags but will not be able to vote on toll renewal.

In its 2011 report, BGR recommended that legislators allow tolls to expire at the end of 2012. BGR based this recommendation on five key arguments:

- The tolls were imposed in order to pay down debt that would be repaid by November 2012, meaning their original *raison d'être* was about to disappear.
- Toll is meant to be user fees. The current CCC tolls are not because only a small portion is spent on the bridge.
- The cost of collecting the tolls is disproportionate to the revenue generated for the bridge.
- Without the expense of toll collection, ferry subsidization and unrelated capital projects, bridge expenses could be covered from State Highway Fund No. 2 and the TTF.
- It is unfair for the state to force New Orleans-area drivers to pay a toll to cross the CCC while it covers expenses for other Mississippi River bridges out of state and federal funds.

BGR made these arguments in the context of the existing toll program. They do not apply to the same extent

to the program before voters.

Under the program before voters, the tolls would be closer to true user fees. Toll revenue would no longer be spent on ferries, but would be dedicated to the bridge, its approaches and roadways. The Legislature has ended the dedication of State Highway Fund No. 2 to the bridge, eliminating the possibility of covering bridge expenses from that source. Therefore, if voters do not renew tolls, the CCC will no longer have a dedicated revenue source.

The state would no longer be forcing drivers to pay a toll to cross the CCC while it covers expenses for the other bridges. Voters will decide whether to impose a toll on themselves in order to receive a guaranteed level of services, some of which the DOTD states it will not otherwise provide.

As BGR stated in its 2011 report, charging tolls on significant bridges and roads throughout the state could be an effective and equitable way to increase state transportation funding.<sup>23</sup> Toll may also be appropriate for unique roadways, such as the 24-mile Lake Pontchartrain Causeway. They provide a more direct way of charging drivers for using public infrastructure than gas taxes, the traditional method to fund transportation needs. Through tolls, drivers pay directly for their use of a particular roadway or bridge. The resulting revenue can then be used to support the operations and maintenance of the road or bridge being tolled.

## BGR POSITION

**AGAINST.** The tolls would provide a dedicated source of funding for infrastructure investments at the local level. However, the need for continued tolls has not been established.

The tolls would cover many expenses that the state would otherwise meet from other sources available for those purposes. The State Police have stated that they will assume responsibility for patrolling the bridge regardless of whether there are tolls. Likewise, the DOTD has indicated that it will inspect, maintain and repair the bridge regardless of whether there are tolls. The extent

to which the state would fund the proposed capital projects without tolls is unclear.

There is another uncertainty about future expenditures that prevents voters from making an informed decision. Because of the vagueness of the proposition and accompanying legislation, the geographical limits on the expenditure of toll funds are open to interpretation.

The fiscal impact of lighting expenses on the individual local jurisdictions has not been quantified. However, the DOTD's current expenditures for these purposes total \$800,000, a fraction of what would be collected through tolls. Furthermore, there will be enough money in the Transition Fund to cover these costs for a number of years. This will provide plenty of time for local jurisdictions to work out a strategy for these services.

Finally, drivers need not fear that the bridge will become unsafe. Under federal law, the state must regularly inspect the bridge to ensure proper maintenance and immediately address any safety-related deficiencies. Even if that were not the case, it is unlikely that the state would fail to prioritize one of its most vital arteries.

## ENDNOTES

1 La R.S. 48:1101.1 (B)(2)(b).

2 Currently, State Highway Fund No. 2 receives 30% of the motor vehicle tax from vehicle owners in Jefferson, Orleans, St. Charles, St. John the Baptist, St. Tammany and Tangipahoa parishes. Half of that amount is dedicated to the CCC Division. The other half goes to the Greater New Orleans Expressway Commission, which is responsible for the Lake Pontchartrain Causeway.

3 Louisiana Legislative Fiscal Office, Fiscal Note to HB 1212, June 11, 2012, p. 1. In 2011, tolls accounted for \$20.7 million and State Highway Fund No. 2 for \$4.7 million. Ferry revenue, rental income, scrip revenue from the bridge and the ferry and interest on investments accounted for the remaining income.

4 BGR, *Over the River: The Future of the Crescent City Connection Bridge and Ferries*, April 2011, p. 5.

5 La. R.S. 47:820.5 (B).

6 Act No. 866 of 2012.

7 Louisiana Legislative Fiscal Office, Fiscal Note to HB 1212, p. 2.

8 In 2011, toll revenues were \$20.7 million. Based on this figure, if \$12 million is allocated to the Capital fund and State Police, more than \$8 million would remain for operating and maintaining the bridge and surrounding roadways. In its 2011 report, BGR found that, in 2010, it cost a total of \$7.7 million to collect and administer tolls, maintain and operate the bridge, and provide beautification and lighting for the bridge and surrounding roadways. Toll collection and administration was \$4.1 million, bridge operations and maintenance \$1.8 million, beautification \$1.2 million and lighting \$0.6 million. BGR, p. 6.

9 From 2000 to 2010, the CCC Division spent \$121.7 million on capital projects. BGR calculation based on numbers provided by the DOTD. BGR, p. 7.

10 A small portion of the bridge is in Gretna.

11 DOTD response to BGR information request, July 13, 2012.

12 Anderson, Ed, "Bill Permits 'Market-rate Fares' on N.O. ferries; Bridge Legislation Clears House Panel," *The Times-Picayune*, May 15, 2012.

13 "Crescent City Connection Services Plan," presentation by Sherri LeBas, DOTD Secretary, before Jefferson Parish Council, August 8, 2012.

14 Louisiana Legislative Fiscal Office, Fiscal Note to SB 599, p. 2.

15 23 U.S.C. Sec. 144 et seq.

16 The president signed the Moving Ahead for Progress in the 21st Century Act, better known as MAP-21, in July. The pertinent amendment is contained in 23 U.S.C. Sec. 144.

17 23 U.S.C. Sec. 116.

18 23 C.F.R. Sec. 650.313 (H). See also 23 C.F.R. Sec. 650.303. According to the Office of Bridge Technology in the Federal Highway Administration, Department of Transportation, it is rare that federal transportation officials must force state action.

19 "Crescent City Connection Services Plan," presentation by Sherri LeBas, DOTD Secretary, before Jefferson Parish Council, August 8, 2012.

20 The projects were established in Act No. 36 of 1994, Sec. B(2)

and Act. No. 59 of 1998. The remaining unfunded projects include an extension of Peters Road; expanding Lapalco Boulevard; improvements to Barataria Boulevard and Terry Parkway; and an upgrade to the MacArthur Drive Interchange.

21 CCC Division, p. 4.

22 DOTD.

23 BGR, p. 1.

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