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Chaos ahead for Pa. transportation funding?

By Colin McNickle

A nasty storm could be brewing for Pennsylvania's transportation funding regimen, says a scholar at the Allegheny Institute for Public Policy.

And it's all been fueled by dubious state legislation that long has milked the Pennsylvania Turnpike Commission (PTC) for millions of dollars to, in contravention of federal law, help pay for non-Turnpike projects.

The result has been a public policy mess – ever-rising turnpike tolls and intractable debt, a predictable cooling in utilization and a lawsuit, that if successful, would throw transportation funding in the commonwealth into chaos.

“While many decry the (toll) rate increases, they also forget the misguided legislation that creates this situation,” says Frank Gamrat, executive director of the Pittsburgh think tank (*in Policy Brief Vol. 19, No. 2*).

The seeds of this burgeoning mess were planted with the original Act 44 of 2007. It sought to turn Interstate 80, across the norther tier of Pennsylvania, into a toll road. The deal called for the Turnpike Commission to take over the road from the state Department of Transportation, toll it, then transfer \$900 million annually to PennDOT beginning in fiscal 2009 (increasing 2.5 percent each year thereafter).

Pols considered the move a magic bullet to address Pennsylvania's chronic highway, bridge and mass-transit funding challenges. But a not-so-funny thing happened on the way to funding Nirvana: Federal law requires all proceeds from tolled interstate highways to be reinvested in those highways.

The feds thrice rejected the commonwealth's gambol in lawlessness. But that didn't stop the gambaulders from playing games.

“Even though permission to toll Interstate 80 was not granted, the revised legislation kept the PTC on the hook for payments to PennDOT, albeit at a reduced rate of \$450 million per year starting in fiscal 2011,” says Gamrat, a Ph.D. economist.

That's after paying \$750 million in fiscal 2008, \$850 million in fiscal 2009 and the full \$900 million in fiscal 2010. Then came Act 89 of 2013, which raised the gasoline tax, and reduced the Turnpike Commission's remittance obligation to PennDOT to \$50 million annually beginning in fiscal 2023.

In fiscal 2018, more than half of that \$450 million annual diversion -- \$250 million -- went to mass transit. But, again, any money taken from the Turnpike Commission for non-turnpike upkeep is in contravention of federal law. And that has critically strapped the commission.

Not only did it just raise tolls for the 10th-consecutive year, in order to pay its annual \$450 million tribute to PennDOT, it has been, for several years, forced to issued debt against mainline tolls.

In fiscal 2007, the total mainline outstanding debt was \$1.7 billion. For fiscal 2018, that amount has ballooned to \$12.2 billion -- more than seven times greater in just 11 years.

"All this borrowing has severely eroded the PTC's financial position," Gamrat cautions. "In fiscal 2018, the PTC had total assets of \$8.9 billion and total liabilities of \$14.5 billion for a total net position of a negative \$5.6 billion."

And those rising tolls appear to have taken their toll as well. Growth, as measured by vehicle transactions, has been quite modest over the last decade. But, more importantly, revenue mile per commercial vehicle has fallen dramatically -- by 12 percent --since fiscal 2008.

"Perhaps commercial vehicles are not able to pass along to their customers the increased cost of using the turnpike and may be finding alternatives to using the system," the think tank scholar surmises.

Talk about a house of cards. The very poor decision to use toll money elsewhere not only has created a situation in which the Turnpike Commission must constantly raise tolls and keep borrowing to meet obligations, it also has created significant legal jeopardy that could force a wholesale redesign of transportation funding in the Keystone State.

To wit, the same group of truckers that successfully sued the State of New York for running afoul of federal law by misdirecting toll proceeds has filed suit against the Pennsylvania practice. The Turnpike Commission has placed the money it's supposed to be paying PennDOT into escrow pending the litigation's resolution.

"What if federal courts find for the truckers again?" asks Gamrat. "Will they win back-tolls? And how will the current governor and Legislature react regarding transportation funding?"

"Needless to say, this lawsuit and possible ramifications of a ruling against the PTC will be extraordinarily important and will require close monitoring and analysis," Gamrat concludes.

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