

**Bay Area Infrastructure Financing Authority  
Network and Operations Committee**

**June 14, 2024**

**Agenda Item 5a**

**Bay Area Infrastructure Finance Authority (BAIFA) Resolution No. 36, Revised – Revision  
of Exception to Assessment of Penalties**

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**Subject:**

Request to refer BAIFA Resolution No. 36, Revised – Revision of Exception to Assessment of Penalties, to the Authority for approval. The resolution offers a one-time waiver of one violation penalty to all customers, as required by statute, or a one-time waiver of all violation penalties to customers eligible for BATA’s low-income payment plan. This would take effect after BAIFA’s current one-time waiver policy expires on September 30, 2024.

**Background:**

On June 22, 2022, BAIFA amended its toll ordinance to allow revision of violation penalties by resolution. This change allows BAIFA to modify violation penalty amounts and exceptions to the assessment of penalties by board resolution adopted at a public meeting.

In July 2022, BAIFA adopted Resolution 36, which decreased penalties to \$10 for the first notice, \$20 for the second notice, totaling \$30 after two notices; the decrease was effective October 3, 2022. All Bay Area express lanes reduced their penalties to these same amounts with the same effective date for regional consistency.

In February 2023, the Bay Area Express Lanes Executive Steering Committee (ESC) made a unanimous recommendation to implement the low-income payment plan with the same policies and effective date as for the Bay Area toll bridges. The recommended policy included offering a one-time waiver of all violations for customers eligible for a payment plan. BAIFA adopted the low-income payment plan in May 2023.

In general, BAIFA and other regional express lane operators strive for consistency in toll policies. The express lane agencies also strive for consistency with BATA toll policies where appropriate; however, express lanes have important differences from toll bridges. In particular, express lane users can choose to travel in adjacent lanes for no charge.

### **One-Time Violation Penalty Waiver**

On May 24, 2023, BATA approved BATA Resolution No. 52, Revised to add the policies of the low-income payment plan and to adopt a One-Time Waiver Program offering the waiver of violation penalties on state-owned bridges to all customers with no limitation on the timeframe when the violations occurred. The current one-time waiver expires September 30, 2024, consistent with the COVID Waiver requirements in AB2594 (Ting).

Although express lanes were not required by AB 2594 to provide a COVID-era waiver, BAIFA adopted BATA's One-Time Waiver Program in May 2023 (BAIFA Resolution No. 36, Revised). In doing so, BAIFA broke from other express lanes operators that had already resumed sending violations to DMV hold. In contrast, BAIFA customers were similarly impacted as BATA customers by the resumption in issuing DMV holds. The intent was to allow BAIFA's express lanes users to make a fresh start and make the waiver program easier for the FasTrak® Customer Service Center to administer during the release of the backlog of violations.

With the impending expiration of the One-Time Waiver program on September 30, 2024, staff recommend extending the one-time waiver of all violation penalties for customers eligible for BATA's Low-Income Payment Plan.

All others would be automatically eligible for a one-time waiver of one violation pursuant to the requirements of AB 2594 as follows: for a first-time offense, upon request a non-customer can open a FasTrak® account prior to DMV registration hold or collections and the penalty will be waived. This revised policy would not preclude BAIFA from waiving outstanding COVID-era violations for individual customers on a case-by-case basis in accordance with provisions of BAIFA's toll ordinance.

These revisions to the exceptions to the assessment of penalties in BAIFA's toll ordinance allow BAIFA to re-align with other Bay Area express lanes operators in a regionally consistent policy. More broadly, MTC is evaluating the income threshold for eligibility in MTC's various low-income discount programs; BAIFA can revisit its waiver policy as MTC's recommendations come forward.

**Issues:**

If no action is taken, the one-time waiver will expire on September 30, 2024, and participants of the payment plan would not be eligible for a one-time waiver of violation penalties; this would be inconsistent with the payment plan policies recommended by the ESC and as adopted by other Bay Area express lanes operators.

**Recommendations:**

Staff recommends the Committee refer BAIFA Resolution No. 36, Revised, Revision to Exception to Assessment of Penalties, to the Authority for approval to extend the one-time waiver of violation penalties for those eligible for the low-income payment plan and align with other Bay Area express lanes operators.

**Attachments:**

- Attachment A: BAIFA Resolution No. 36, Revised – Revisions to BAIFA Toll Violation Penalties and Exception to Assessment of Penalties
- Attachment B: PowerPoint

  
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