New toll for Virginia's Norfolk-Portsmouth tunnels

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Starting next month, drivers crossing the Elizabeth River between the Virginia cities of Norfolk and Portsmouth will pay a toll of $1.84 each way to a private company, Elizabeth River Crossings LLC. According to the deal that the company struck with the Virginia Department of Transportation (VDOT), the latter will collect this toll for the next 58 years, for a total expected revenue of $22 billion.

The alleged purpose of the toll is to raise funds for a new tube of the Midtown tunnel connecting the two cities and to upgrade related roadways in Portsmouth. The actual cost of the project, including maintenance over the 58-year contract period, is $2.1 billion, less than one tenth of the projected toll revenue. Elizabeth River Crossings (ERC) expects to make a 13.5 percent return on its investment for each year tolls are collected.

Norfolk and Portsmouth are both major shipping centers on the south side of Hampton Roads, the waterway where the Elizabeth and James Rivers converge into the Chesapeake Bay. According to the 2010 US census nearly 1.7 million people live in the Hampton Roads area which includes Norfolk, Portsmouth, Chesapeake, Virginia Beach and Suffolk on the south side and Hampton, Newport News and Williamsburg on the Virginia Peninsula to the north.

Thousands of working people and commercial drivers travel between Norfolk and Portsmouth each day. Roughly 120,000 area residents commute from one city to the other. For these residents, the tolls at the Midtown and Downtown tunnels will add up to nearly $1,000 annually. Trucks using the tunnels will pay $7.36. Those who do not purchase a $35 EZ Pass transponder will receive bills by mail and will pay an additional $3.18 *per crossing*, for a total of $5.02.

According to the terms of ERC's contract, the company can increase toll rates by 3.5 percent each year starting in 2016. Should VDOT construct an additional bridge or tunnel connecting Norfolk and Portsmouth, ERC will charge the state for lost revenue from diverted traffic.

In October, the Supreme Court of Virginia overturned a lower court ruling which found that the tolls were a tax that violated the Virginia Constitution because it was levied by and for the benefit of a private party (ERC). The Supreme Court made the absurd ruling that the toll was not a tax because commuters had the choice to drive 12 miles out of the way to use the Gilmerton bridge or High Rise bridge. Such detours would add roughly one hour per day in commuting time.

Portsmouth business owners filed the suit in 2012, fearing that the tolls would discourage residents from traveling from Norfolk to eat at local restaurants and shop and retail stores.

Virginia Supreme Court Justice William C. Mims failed to recuse himself from the hearing, even though he was a partner at the lobbying firm Hunton and Williams, which has represented VDOT and ERC. Mims was a strong proponent of public-private partnerships as a state senator and as Attorney General in 2009-10.

McDonnell touted the ERC plan as proof that public-private partnerships were a workable alternative to traditional infrastructure projects. In a move to quell popular anger, newly elected governor Terry McAuliffe is attempting to reduce the tolls temporarily to $0.75, at least until construction of the new Midtown tunnel tube begins. This proposed reduction will be offset by fee hikes down the road.

Democrats in the state House of Delegates have introduced several very modest proposals to reduce the toll, including a reduction in the EZ Pass monthly

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maintenance fee of $0.50 and a bill to allow a casino in Portsmouth, from which a portion of the revenue would provide relief for residents paying the toll daily.

In his 2013 State of the Region report, Old Dominion University economics professor James V. Koch asserted that the tolls will harm the region. He writes:

"The soon-to-be-implemented toll system (which the *Virginian-Pilot* once dubbed 'a ring of fire') virtually encourages regional firms to relocate outside the ring of tolls—that is, closer to Richmond or points south. After all, why should one locate a business in, say, Hampton or Virginia Beach, if moving product from those cities not only will be handicapped by congestion, but also will require the paying of tolls for the privilege of facing that congestion?"

It is not yet clear how the tolls will affect each individual city, although the Portsmouth City Council has commissioned professor Koch to study the economic impact on the city.

Nor is it clear to what extent a new tube at the Midtown tunnel, currently a two-lane, two-way road, will relieve traffic congestion in the region. While the agreement with ERC provides subsidies to the local bus company to reduce fares, it is notable that the new tunnel tube does not extend Norfolk's new light rail system into Portsmouth, a move which could reduce traffic and wear and tear to the roadways.

The enactment of a toll for crossing the Elizabeth river is a reactionary measure, creating windfall profits for ERC and a burdensome tax on area residents and businesses. The claim that there is no money for critical infrastructure projects is a lie. The richest person in Hampton Roads, Winnie Johnson-Marquart, an heir to the Fortune 500 company, S.C. Johnson, boasts a *personal* fortune estimated at $2.7 billion. This amount could cover the cost of the entire ERC project, including 58 years of upkeep, with more than half a billion dollars to spare.

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