The Forth Road Bridge Bill was introduced in the Scottish Parliament by Nicola Sturgeon MSP, Cabinet Secretary for Infrastructure, Investment and Cities on 11 December 2012. The Bill makes provision to: trunk the road over the Forth Road Bridge, which means that the Scottish Government becomes the roads authority; transfer all of the Forth Estuary Transport Authority (FETA) property, assets and liabilities to the Scottish Government; and dissolve FETA, which currently manages and maintains the Forth Road Bridge. The Bill also transfers FETA’s employees directly into the employment of a bridge operating company appointed by Scottish Ministers and ensures the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the TUPE regulations) apply to the transfer.
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INTRODUCTION

This briefing outlines the current management arrangements for the Forth Road Bridge and describes the changes proposed in the Forth Road Bridge Bill ("the Bill") and the Scottish Government’s reasoning behind these proposals. It goes on to outline other options to the proposals in the Bill considered by the Scottish Government and the financial implications of the Bill.

THE FORTH ROAD BRIDGE

The Forth Road Bridge is a long span suspension bridge over the Firth of Forth between South Queensferry, located to the west of Edinburgh, and North Queensferry in Fife. The bridge and its approach viaducts, which carry a two lane dual carriageway plus cycle paths and footpaths, are 2,517 metres long. The suspension bridge itself is 1,822 metres long, making it the second longest single span suspension bridge in the UK.

MANAGEMENT OF THE FORTH ROAD BRIDGE

The construction and management of the Forth Road Bridge was overseen by the Forth Road Bridge Joint Board, established under the provisions of the Forth Road Bridge Order Confirmation Act 1947, until 1 April 2002. On that date the Joint Board was dissolved and its assets, liabilities and responsibilities were passed to the newly created Forth Estuary Transport Authority (FETA) which was created under the provisions of the Forth Estuary Transport Order 2002. FETA was established with a broader remit than the Joint Board, allowing it to spend money on public transport and other initiatives aimed at improving cross-Forth travel and reducing congestion on the Forth Road Bridge as well as focusing on Bridge maintenance and operation. The then Scottish Executive outlined the reasons behind the establishment of FETA in a press release issued in January 2002, which stated:

“The creation of the Forth Estuary Transport Authority marks a significant step forward in our efforts to tackle congestion on the Forth Road Bridge and to improve travel across the Forth. While maintenance of the bridge will remain a top priority, the Authority will also be able to use revenues to fund public transport alternatives, road works, traffic management measures and other schemes it feels will bring real benefits to bridge users.”

FETA is a joint board made up of councillors from four local authorities, namely:

- City of Edinburgh Council 4 members
- Fife Council 4 members
- Perth & Kinross Council 1 member
- West Lothian Council 1 member

FETA employs 72 staff, who are involved in the day-to-day management and maintenance of the Forth Road Bridge.

All FETA funding comes from the Scottish Government. Prior to 11 February 2008, all funding for bridge operations, routine maintenance and transport schemes came from toll revenue. However, the Scottish Government abolished bridge tolls on the Forth Road Bridge under the provisions of the Abolition of Bridge Tolls (Scotland) Act 2008.
THE FORTH ROAD BRIDGE BILL

The Explanatory Notes which accompany the Bill confirm the Scottish Government’s intention to let a single contract for the management and maintenance of the Forth Road Bridge, Forth Replacement Crossing and the connecting roads from the M90 Junction 3 Halbeath in the north through to the M9 Junction 1a in the south. The Forth Road Bridge Bill removes the legislative barriers that currently prevent the Scottish Government from including the Forth Road Bridge in the contract. The key provisions of the Bill are set out below:

Section 1: Designates the road over the Forth Road Bridge as a trunk road, making Scottish Ministers the roads authority for that road.

Section 2: Transfers all FETA owned properties, including the Bridge, to Scottish Ministers along with any other legal or financial liabilities.

Section 3: Provides that all FETA employees will transfer to the operator appointed by Scottish Ministers to manage and maintain the Forth Road Bridge, Forth Replacement Crossing and connecting roads. The Transfer of Undertakings (Protection of Employment) Regulations 2006, generally known as the TUPE Regulations, will apply to this transfer. Staff currently employed to manage and maintain the Forth Road Bridge will be transferred to the winning operating company on the same terms and conditions.

Section 4: Allows for the dissolution of FETA.

Section 5: Allows for all byelaws made by FETA and the previous Joint Board to continue following FETA’s dissolution. It also gives Scottish Ministers powers to revoke such byelaws through a traffic management order.

Section 6: Interpretation of terms used in the Bill.

Section 7: States that sections 6 and 8 come into force on the day the Bill receives Royal Assent and that all other sections come into force on a day of Scottish Ministers choosing.

Section 8: Short title of the Bill.

Schedule: Describes the section of road to be designated as trunk road under Section1 of the Bill.

ALTERNATIVES OPTIONS CONSIDERED BY THE SCOTTISH GOVERNMENT

Transport Scotland and FETA officials undertook a study during early 2011 into possible options for the future management of the Forth Road Bridge and Forth Replacement Crossing. This study identified the following three options:

- **Option 1**: FETA continues to manage and maintain the Forth Road Bridge while the Scottish Government appoints a separate company to manage and maintain the Forth Replacement Crossing;
- **Option 2**: A single company is appointed to manage and maintain the Forth Replacement Crossing and the Forth Road Bridge;
- **Option 3**: Responsibility for managing and maintaining the new Forth Replacement Crossing is delegated by the Scottish Government to FETA, in addition to their responsibility for the Forth Road Bridge.
The options were assessed against the following criteria:

- the ability to demonstrate and deliver value for money;
- traffic management and maintenance effectiveness;
- opportunity to utilise FETA's land and assets;
- the protection of FETA employees;
- legal implications;
- potential governance arrangements.

The Policy Memorandum which accompanies the Bill sets out the following reasons as to why Scottish Ministers chose option 2:

"The Scottish Government concluded that option 2 best supports the Scottish Government's strategic objective of making Scotland a wealthier and fairer country, and in particular, the Government's emphasis on managing public sector spending effectively. The option will -

- Deliver value for money and operational efficiencies through the twin-bridge contract, thereby making savings to the public purse;
- Protect all FETA staff, as it intends that the Transfer of Undertakings (Protection of Employment) Regulations apply, meaning there will be no compulsory redundancies as a result of the transfer;
- Bring a strategic and collaborative approach to the management and maintenance of the Forth bridges, demonstrating our commitment to public service reform."

It is worth noting that the Financial Memorandum includes a detailed estimate of the costing associated with options 1 and 2 outlined above. However, it does not provide any figures for option 3, i.e. FETA retains responsibility for the Forth Road Bridge and assumes responsibility for the Forth Replacement Crossing. The Final Business and Regulatory Impact Assessment (Transport Scotland 2012) of the proposals in the Bill indicate that the costs associated with Option 3 have not been assessed "as it was established that FETA cannot participate in a procurement competition, the costs of this option have not been assessed". The reason for this is explained as follows: "If FETA use state funding to finance a tender bid (as they are fully funded by the Scottish Government) then this would very likely constitute State Aid". This situation would only arise if FETA were required to take part in a competitive tendering exercise.

**FINANCIAL IMPLICATIONS OF THE BILL**

The Financial Memorandum that accompanies the Bill indicates that its proposals will have minimal direct financial implications for the Scottish Government, local authorities and other organisations and businesses.

The Financial Memorandum also highlights that it is likely to cost around £1.2 million per annum less to let a contract for the management and maintenance of both the Forth Road Bridge and Forth Replacement Crossing rather than having the bridges managed by two separate organisations. This is possible because the two bridge contract allows:

- Staff to work on both bridges;
- Use existing premises as a base to manage both bridges;
- Use vehicles, plant and equipment across both bridges; and allows for
• Economies of scale in the provision of administrative support and back office functions

The exact savings will be determined by the price at which the winning bridge operating company bids.

FUTURE ARRANGEMENTS

In anticipation of the eventual dissolution of FETA, Transport Scotland established a 'Forth Bridges Forum' during November 2011. The forum currently brings together representatives from Network Rail, FETA, City of Edinburgh Council, Fife Council, West Lothian Council, Historic Scotland and Visit Scotland to bring a strategic and collaborative approach to the management and operation of the Forth bridges and to ensure effective engagement with local elected members, community councils and residents.
SOURCES

Forth Estuary Transport Authority [online]: Available at: http://www.forthroadbridge.org/home


RELATED BRIEFINGS

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