

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.811 as follows:

6 (30 ILCS 105/5.811 new)

7 Sec. 5.811. The Public-Private Partnerships for
8 Transportation Fund.

9 Section 10. The Public-Private Partnerships for
10 Transportation Act is amended by changing Sections 10, 15, 20,
11 25, 35, 40, and 45 and by adding Section 90 as follows:

12 (630 ILCS 5/10)

13 Sec. 10. Definitions. As used in this Act:

14 "Approved proposal" means the proposal that is approved by
15 the transportation agency pursuant to subsection (j) ~~(e)~~ of
16 Section 20 of this Act.

17 "Approved proposer" means the private entity whose
18 proposal is the approved proposal.

19 "Authority" means the Illinois State Toll Highway
20 Authority.

21 "Contractor" means a private entity that has entered into a

1 public-private agreement with the transportation agency to
2 provide services to or on behalf of the transportation agency.

3 "Department" means the Illinois Department of
4 Transportation.

5 "Design-build agreement" means the agreement between the
6 selected private entity and the transportation agency under
7 which the selected private entity agrees to furnish design,
8 construction, and related services for a transportation
9 facility under this Act.

10 "Develop" or "development" means to do one or more of the
11 following: plan, design, develop, lease, acquire, install,
12 construct, reconstruct, rehabilitate, extend, or expand.

13 "Maintain" or "maintenance" includes ordinary maintenance,
14 repair, rehabilitation, capital maintenance, maintenance
15 replacement, and any other categories of maintenance that may
16 be designated by the transportation agency.

17 "Metropolitan planning organization" means a metropolitan
18 planning organization designated under 23 U.S.C. Section 134
19 whose metropolitan planning area boundaries are partially or
20 completely within the State.

21 "Operate" or "operation" means to do one or more of the
22 following: maintain, improve, equip, modify, or otherwise
23 operate.

24 "Private entity" means any combination of one or more
25 individuals, corporations, general partnerships, limited
26 liability companies, limited partnerships, joint ventures,

1 business trusts, nonprofit entities, or other business
2 entities that are parties to a proposal for a transportation
3 project or an agreement related to a transportation project. A
4 public agency may provide services to a contractor as a
5 subcontractor or subconsultant without affecting the private
6 status of the private entity and the ability to enter into a
7 public-private agreement. A transportation agency is not a
8 private entity.

9 "Proposal" means all materials and documents prepared by or
10 on behalf of a private entity relating to the proposed
11 development, financing, or operation of a transportation
12 facility as a transportation project.

13 "Proposer" means a private entity that has submitted a
14 proposal or statement of qualifications for a public-private
15 agreement in response to a request for proposals or a request
16 for qualifications issued by a transportation agency under this
17 Act.

18 "Public-private agreement" means the public-private
19 agreement between the contractor and the transportation agency
20 relating to one or more of the development, financing, or
21 operation of a transportation project that is entered into
22 under this Act.

23 "Request for information" means all materials and
24 documents prepared by or on behalf of the transportation agency
25 to solicit information from private entities with respect to
26 transportation projects.

1 "Request for proposals" means all materials and documents
2 prepared by or on behalf of the transportation agency to
3 solicit proposals from private entities to enter into a
4 public-private agreement.

5 "Request for qualifications" means all materials and
6 documents prepared by or on behalf of the transportation agency
7 to solicit statements of qualification from private entities to
8 enter into a public-private agreement.

9 "Revenues" means all revenues, including any combination
10 of: income; earnings and interest; user fees; lease payments;
11 allocations; federal, State, and local appropriations, grants,
12 loans, lines of credit, and credit guarantees; bond proceeds;
13 equity investments; service payments; or other receipts;
14 arising out of or in connection with a transportation project,
15 including the development, financing, and operation of a
16 transportation project. The term includes money received as
17 grants, loans, lines of credit, credit guarantees, or otherwise
18 in aid of a transportation project from the federal government,
19 the State, a unit of local government, or any agency or
20 instrumentality of the federal government, the State, or a unit
21 of local government.

22 "Shortlist" means the process by which a transportation
23 agency will review, evaluate, and rank statements of
24 qualifications submitted in response to a request for
25 qualifications and then identify the proposers who are eligible
26 to submit a detailed proposal in response to a request for

1 proposals. The identified proposers constitute the shortlist
2 for the transportation project to which the request for
3 proposals relates.

4 "Transportation agency" means (i) the Department or (ii)
5 the Authority.

6 "Transportation facility" means any new or existing road,
7 highway, toll highway, bridge, tunnel, intermodal facility,
8 intercity or high-speed passenger rail, or other
9 transportation facility or infrastructure, excluding airports,
10 under the jurisdiction of the Department or the Authority,
11 except those facilities for the Illiana Expressway. The term
12 "transportation facility" may refer to one or more
13 transportation facilities that are proposed to be developed or
14 operated as part of a single transportation project.

15 "Transportation project" or "project" means any or the
16 combination of the development, financing, or operation with
17 respect to all or a portion of any transportation facility
18 under the jurisdiction of the transportation agency, except
19 those facilities for the Illiana Expressway, undertaken
20 pursuant to this Act.

21 "Unit of local government" has the meaning ascribed to that
22 term in Article VII, Section 1 of the Constitution of the State
23 of Illinois and also means any unit designated as a municipal
24 corporation.

25 "User fees" or "tolls" means the rates, tolls, fees, or
26 other charges imposed by the contractor for use of all or a

1 portion of a transportation project under a public-private
2 agreement.

3 (Source: P.A. 97-502, eff. 8-23-11.)

4 (630 ILCS 5/15)

5 Sec. 15. Formation of public-private agreements; project
6 planning.

7 (a) Each transportation agency may exercise the powers
8 granted by this Act to do some or all to develop, finance, and
9 operate any part of one or more transportation projects through
10 public-private agreements with one or more private entities,
11 except for transportation projects for the Illiana Expressway
12 as defined in the Public Private Agreements for the Illiana
13 Expressway Act. The net proceeds, if any, arising out of a
14 transportation project or public-private agreement undertaken
15 by the Department pursuant to this Act shall be deposited into
16 the Public-Private Partnerships for Transportation State
17 Construction Account Fund. The net proceeds arising out of a
18 transportation project or public-private agreement undertaken
19 by the Authority pursuant to this Act shall be deposited into
20 the Illinois State Toll Highway Authority Fund and shall be
21 used only as authorized by Section 23 of the Toll Highway Act.

22 (b) The Authority shall not enter into a public-private
23 agreement involving a lease or other transfer of any toll
24 highway, or portions thereof, under the Authority's
25 jurisdiction which were open to vehicular traffic on the

1 effective date of this Act. The Authority shall not enter into
2 a public-private agreement for the purpose of making roadway
3 improvements, including but not limited to reconstruction,
4 adding lanes, and adding ramps, to any toll highway, or
5 portions thereof, under the Authority's jurisdiction which
6 were open to vehicular traffic on the effective date of this
7 Act. The Authority shall not use any revenue generated by any
8 toll highway, or portions thereof, under the Authority's
9 jurisdiction which were open to vehicular traffic on the
10 effective date of this Act to enter into or provide funding for
11 a public-private agreement. The Authority shall not use any
12 asset, or the proceeds from the sale or lease of any such
13 asset, which was owned by the Authority on the effective date
14 of this Act to enter into or provide funding for a
15 public-private agreement. The Authority may enter into a
16 public-private partnership to develop, finance, and operate
17 new toll highways authorized by the Governor and the General
18 Assembly pursuant to Section 14.1 of the Toll Highway Act,
19 non-highway transportation projects on the toll highway system
20 such as commuter rail or high-speed rail lines, and intelligent
21 transportation infrastructure that will enhance the safety,
22 efficiency, and environmental quality of the toll highway
23 system. The Authority may operate or provide operational
24 services such as toll collection on highways which are
25 developed or financed, or both, through a public-private
26 agreement entered into by another public entity, under an

1 agreement with the public entity or contractor responsible for
2 the transportation project.

3 (c) A contractor has:

4 (1) all powers allowed by law generally to a private
5 entity having the same form of organization as the
6 contractor; and

7 (2) the power to develop, finance, and operate the
8 transportation facility and to impose user fees in
9 connection with the use of the transportation facility,
10 subject to the terms of the public-private agreement.

11 No tolls or user fees may be imposed by the contractor
12 except as set forth in a public-private agreement.

13 (d) Each year, at least 30 days prior to the beginning of
14 the transportation agency's fiscal year, and at other times the
15 transportation agency deems necessary, the Department and the
16 Authority shall submit for review to the General Assembly a
17 description of potential projects that the transportation
18 agency is considering undertaking under this Act. Any
19 submission from the Authority shall indicate which of its
20 potential projects, if any, will involve the proposer operating
21 the transportation facility for a period of one year or more.
22 Prior to the issuance of any request for qualifications or
23 request for proposals with respect to any potential project
24 undertaken by the Department or the Authority pursuant to
25 Section 20 of this Act, the commencement of a procurement
26 process for that particular potential project shall be

1 authorized by joint resolution of the General Assembly.

2 (e) Each year, at least 30 days prior to the beginning of
3 the transportation agency's fiscal year, the transportation
4 agency shall submit a description of potential projects that
5 the transportation agency is considering undertaking under
6 this Act to each county, municipality, and metropolitan
7 planning organization, with respect to each project located
8 within its boundaries.

9 (f) Any project undertaken under this Act shall be subject
10 to all applicable planning requirements otherwise required by
11 law, including land use planning, regional planning,
12 transportation planning, and environmental compliance
13 requirements.

14 (g) Any new transportation facility developed as a project
15 under this Act must be consistent with the regional plan then
16 in existence of any metropolitan planning organization in whose
17 boundaries the project is located.

18 (h) The transportation agency shall hold one or more public
19 hearings within 30 days of each of its submittals to the
20 General Assembly under subsection (d) of this Section. These
21 public hearings shall address potential projects that the
22 transportation agency submitted to the General Assembly for
23 review under subsection (d). The transportation agency shall
24 publish a notice of the hearing or hearings at least 7 days
25 before a hearing takes place, and shall include the following
26 in the notice: (i) the date, time, and place of the hearing and

1 the address of the transportation agency; (ii) a brief
2 description of the potential projects that the transportation
3 agency is considering undertaking; and (iii) a statement that
4 the public may comment on the potential projects.

5 (Source: P.A. 97-502, eff. 8-23-11.)

6 (630 ILCS 5/20)

7 Sec. 20. Procurement process.

8 (a) A transportation agency seeking to enter into a
9 public-private partnership with a private entity for the
10 development, finance, and operation of a transportation
11 facility as a transportation project shall determine and set
12 forth the criteria for the selection process. The
13 transportation agency shall use (i) a competitive sealed
14 bidding process, (ii) a competitive sealed proposal process, or
15 (iii) a design-build procurement process in accordance with
16 Section 25 of this Act. Before using one of these processes the
17 transportation agency may use a request for information to
18 obtain information relating to possible public-private
19 partnerships.

20 (b) If a transportation project will require the
21 performance of design work, the transportation agency shall use
22 the shortlist selection process set forth in subsection (g) of
23 this Section to evaluate and shortlist private entities based
24 on qualifications, including but not limited to design
25 qualifications.

1 A request for qualifications, request for proposals, or
2 public-private agreement awarded to a contractor for a
3 transportation project shall require that any subsequent need
4 for architectural, engineering, or land surveying services
5 which arises after the submittal of the request for
6 qualifications or request for proposals or the awarding of the
7 public-private agreement shall be procured by the contractor
8 using a qualifications-based selection process consisting of:

9 (1) the publication of notice of availability of
10 services;

11 (2) a statement of desired qualifications;

12 (3) an evaluation based on the desired qualifications;

13 (4) the development of a shortlist ranking the firms in
14 order of qualifications; and

15 (5) negotiations with the ranked firms for a fair and
16 reasonable fee.

17 Compliance with the Architectural, Engineering, and Land
18 Surveying Qualifications Based Selection Act shall be deemed
19 prima facie compliance with this subsection (b). Every
20 transportation project contract shall include provisions
21 setting forth the requirements of this subsection (b).

22 (c) Prior to commencing a procurement for a transportation
23 project under this Act, the transportation agency shall notify
24 any other applicable public agency, including the Authority, in
25 all cases involving toll facilities where the Department would
26 commence the procurement, of its interest in undertaking the

1 procurement and shall provide the other public agency or
2 agencies with an opportunity to offer to develop and implement
3 the transportation project. The transportation agency shall
4 supply the other public agency or agencies with no less than
5 the same level and type of information concerning the project
6 that the transportation agency would supply to private entities
7 in the procurement, unless that information is not then
8 available, in which case the transportation agency shall supply
9 the other public agency or agencies with the maximum amount of
10 relevant information about the project as is then reasonably
11 available. The transportation agency shall make available to
12 the other public agencies the same subsidies, benefits,
13 concessions, and other consideration that it intends to make
14 available to the private entities in the procurement.

15 The public agencies shall have a maximum period of 60 days
16 to review the information about the proposed transportation
17 project and to respond to the transportation agency in writing
18 to accept or reject the opportunity to develop and implement
19 the transportation project. If a public agency rejects the
20 opportunity during the 60-day period, then the public agency
21 may not participate in the procurement for the proposed
22 transportation project by submitting a proposal of its own. If
23 a public agency fails to accept or reject this opportunity in
24 writing within the 60-day period, it shall be deemed to have
25 rejected the opportunity.

26 If a public agency accepts the opportunity within the

1 60-day period, then the public agency shall have up to 120 days
2 (or a longer period, if extended by the transportation agency),
3 to (i) submit to the transportation agency a reasonable plan
4 for development of the transportation project; (ii) if
5 applicable, make an offer of reasonable consideration for the
6 opportunity to undertake the transportation project; and (iii)
7 negotiate a mutually acceptable intergovernmental agreement
8 with the transportation agency that facilitates the
9 development of the transportation project and requires that the
10 transportation agency follow its procurement procedures under
11 the Illinois Procurement Code and applicable rules rather than
12 this Act. In considering whether a public agency's plan for
13 developing and implementing the project is reasonable, the
14 transportation agency shall consider the public agency's
15 history of developing and implementing similar projects, the
16 public agency's current capacity to develop and implement the
17 proposed project, the user charges, if any, contemplated by the
18 public agency's plan and how these user charges compare with
19 user charges that would be imposed by a private entity
20 developing and implementing the same project, the project
21 delivery schedule proposed by the public agency, and other
22 reasonable factors that are necessary, including consideration
23 of risks and whether subsidy costs may be reduced, to determine
24 whether development and implementation of the project by the
25 public agency is in the best interest of the people of this
26 State.

1 (d) If the transportation agency rejects or fails to
2 negotiate mutually acceptable terms regarding a public
3 agency's plan for developing and implementing the
4 transportation project during the 120-day period described in
5 subsection (c), then the public agency may not participate in
6 the procurement for the proposed transportation project by
7 submitting a proposal of its own. Following a rejection or
8 failure to reach agreement regarding a public agency's plan, if
9 the transportation agency later proceeds with a procurement in
10 which it materially changes (i) the nature or scope of the
11 project; (ii) any subsidies, benefits, concessions, or other
12 significant project-related considerations made available to
13 the bidders; or (iii) any other terms of the project, as
14 compared to when the transportation agency supplied
15 information about the project to public agencies under
16 subsection (c), then the transportation agency shall give
17 public agencies another opportunity in accordance with
18 subsection (c) to provide proposals for developing and
19 implementing the project.

20 (e) Nothing in this Section 20 requires a transportation
21 agency to go through a procurement process prior to developing
22 and implementing a project through a public agency as described
23 in subsection (c).

24 ~~The selection of professional design firms by a~~
25 ~~transportation agency or private entity shall comply with the~~
26 ~~Architectural, Engineering, and Land Surveying Qualifications~~

1 ~~Based Selection Act or Section 25 of this Act.~~

2 ~~Nothing in this Act shall preclude a public agency,~~
3 ~~including the Department or the Authority, from submitting a~~
4 ~~proposal to develop or operate, or to develop and operate, a~~
5 ~~transportation facility as a transportation project. The~~
6 ~~transportation agency shall give a proposal submitted by a~~
7 ~~public agency equal consideration as it gives proposals~~
8 ~~submitted by private entities, and, for that purpose, treat the~~
9 ~~public agency as a private entity.~~

10 (f) All procurement processes shall incorporate
11 requirements and set forth goals for participation by
12 disadvantaged business enterprises as allowed under State and
13 federal law.

14 (g) ~~(b)~~ The transportation agency shall establish a process
15 to shortlist for prequalification of all potential private
16 entities. The transportation agency shall: (i) provide a public
17 notice of the shortlisting prequalification process for such
18 period as deemed appropriate by the agency; (ii) set forth
19 requirements and evaluation criteria in a request for
20 qualifications order to become prequalified; (iii) develop a
21 shortlist by determining ~~determine~~ which private entities that
22 have submitted statements of qualification prequalification
23 ~~applications~~, if any, meet the minimum requirements and best
24 satisfy the evaluation criteria set forth in the request for
25 qualifications; and (iv) allow only those entities, or groups
26 of entities such as unincorporated joint ventures, that have

1 been shortlisted ~~prequalified~~ to submit proposals or bids.
2 Throughout the procurement period and as necessary following
3 the award of a contract, the ~~The~~ transportation agency shall
4 make publicly available on its website ~~during the request for~~
5 ~~qualifications period~~ information regarding firms that are
6 prequalified by the transportation agency pursuant to Section
7 20 of the Architectural, Engineering, and Land Surveying
8 Qualifications Based Selection Act to provide architectural,
9 engineering, and land surveying services. The transportation
10 agencies and shall require private entities to use firms
11 prequalified under this Act to provide architectural,
12 engineering, and land surveying services. Firms identified to
13 provide architectural, engineering, and land surveying
14 services in a statement of qualifications shall be prequalified
15 under the Act to provide the identified services prior to the
16 transportation agency's award of the contract ~~the use of such~~
17 ~~firms for such services.~~

18 (h) ~~(e)~~ Competitive sealed bidding requirements:

19 (1) All contracts shall be awarded by competitive
20 sealed bidding except as otherwise provided in subsection
21 (i) ~~(d)~~ of this Section and Section 25 of this Act.

22 (2) An invitation for bids shall be issued and shall
23 include a description of the public-private partnership
24 with a private entity for the development, finance, and
25 operation of a transportation facility as a transportation
26 project, and the material contractual terms and conditions

1 applicable to the procurement.

2 (3) Public notice of the invitation for bids shall be
3 published in the State of Illinois Procurement Bulletin at
4 least 21 days before the date set in the invitation for the
5 opening of bids.

6 (4) Bids shall be opened publicly in the presence of
7 one or more witnesses at the time and place designated in
8 the invitation for bids. The name of each bidder, the
9 amount of each bid, and other relevant information as may
10 be specified by rule shall be recorded. After the award of
11 the contract, the winning bid and the record of each
12 unsuccessful bid shall be open to public inspection.

13 (5) Bids shall be unconditionally accepted without
14 alteration or correction, except as authorized in this Act.
15 Bids shall be evaluated based on the requirements set forth
16 in the invitation for bids, which may include criteria to
17 determine acceptability such as inspection, testing,
18 quality, workmanship, delivery, and suitability for a
19 particular purpose. Those criteria that will affect the bid
20 price and be considered in evaluation for award, such as
21 discounts, transportation costs, and total or life cycle
22 costs, shall be objectively measurable. The invitation for
23 bids shall set forth the evaluation criteria to be used.

24 (6) Correction or withdrawal of inadvertently
25 erroneous bids before or after award, or cancellation of
26 awards of contracts based on bid mistakes, shall be

1 permitted in accordance with rules. After bid opening, no
2 changes in bid prices or other provisions of bids
3 prejudicial to the interest of the State or fair
4 competition shall be permitted. All decisions to permit the
5 correction or withdrawal of bids based on bid mistakes
6 shall be supported by written determination made by the
7 transportation agency.

8 (7) The contract shall be awarded with reasonable
9 promptness by written notice to the lowest responsible and
10 responsive bidder whose bid meets the requirements and
11 criteria set forth in the invitation for bids, except when
12 the transportation agency determines it is not in the best
13 interest of the State and by written explanation determines
14 another bidder shall receive the award. The explanation
15 shall appear in the appropriate volume of the State of
16 Illinois Procurement Bulletin. The written explanation
17 must include:

18 (A) a description of the agency's needs;

19 (B) a determination that the anticipated cost will
20 be fair and reasonable;

21 (C) a listing of all responsible and responsive
22 bidders; and

23 (D) the name of the bidder selected, pricing, and
24 the reasons for selecting that bidder.

25 (8) When it is considered impracticable to initially
26 prepare a purchase description to support an award based on

1 price, an invitation for bids may be issued requesting the
2 submission of unpriced offers to be followed by an
3 invitation for bids limited to those bidders whose offers
4 have been qualified under the criteria set forth in the
5 first solicitation.

6 (i) ~~(d)~~ Competitive sealed proposal requirements:

7 (1) When the transportation agency determines in
8 writing that the use of competitive sealed bidding or
9 design-build procurement is either not practicable or not
10 advantageous to the State, a contract may be entered into
11 by competitive sealed proposals.

12 (2) Proposals shall be solicited through a request for
13 proposals.

14 (3) Public notice of the request for proposals shall be
15 published in the State of Illinois Procurement Bulletin at
16 least 21 days before the date set in the invitation for the
17 opening of proposals.

18 (4) Proposals shall be opened publicly in the presence
19 of one or more witnesses at the time and place designated
20 in the request for proposals, but proposals shall be opened
21 in a manner to avoid disclosure of contents to competing
22 offerors during the process of negotiation. A record of
23 proposals shall be prepared and shall be open for public
24 inspection after contract award.

25 (5) The requests for proposals shall state the relative
26 importance of price and other evaluation factors.

1 Proposals shall be submitted in 2 parts: (i) covering items
2 except price; and (ii) covering price. The first part of
3 all proposals shall be evaluated and ranked independently
4 of the second part of all proposals.

5 (6) As provided in the request for proposals and under
6 any applicable rules, discussions may be conducted with
7 responsible offerors who submit proposals determined to be
8 reasonably susceptible of being selected for award for the
9 purpose of clarifying and assuring full understanding of
10 and responsiveness to the solicitation requirements. Those
11 offerors shall be accorded fair and equal treatment with
12 respect to any opportunity for discussion and revision of
13 proposals. Revisions may be permitted after submission and
14 before award for the purpose of obtaining best and final
15 offers. In conducting discussions there shall be no
16 disclosure of any information derived from proposals
17 submitted by competing offerors. If information is
18 disclosed to any offeror, it shall be provided to all
19 competing offerors.

20 (7) Awards shall be made to the responsible offeror
21 whose proposal is determined in writing to be the most
22 advantageous to the State, taking into consideration price
23 and the evaluation factors set forth in the request for
24 proposals. The contract file shall contain the basis on
25 which the award is made.

26 (j) ~~(e)~~ In the case of a proposal or proposals to the

1 Department or the Authority, the transportation agency shall
2 determine, based on its review and evaluation of the proposal
3 or proposals received in response to the request for proposals,
4 which one or more proposals, if any, best serve the public
5 purpose of this Act and satisfy the criteria set forth in the
6 request for proposals and, with respect to such proposal or
7 proposals, shall:

8 (1) submit the proposal or proposals to the Commission
9 on Government Forecasting and Accountability, which,
10 within 20 days of submission by the transportation agency,
11 shall complete a review of the proposal or proposals and
12 report on the value of the proposal or proposals to the
13 State;

14 (2) hold one or more public hearings on the proposal or
15 proposals, publish notice of the hearing or hearings at
16 least 7 days before the hearing, and include the following
17 in the notice: (i) the date, time, and place of the hearing
18 and the address of the transportation agency, (ii) the
19 subject matter of the hearing, (iii) a description of the
20 agreement to be awarded, (iv) the determination made by the
21 transportation agency that such proposal or proposals best
22 serve the public purpose of this Act and satisfy the
23 criteria set forth in the request for proposals, and (v)
24 that the public may be heard on the proposal or proposals
25 during the public hearing; and

26 (3) determine whether or not to recommend to the

1 Governor that the Governor approve the proposal or
2 proposals.

3 The Governor may approve one or more proposals recommended
4 by the Department or the Authority based upon the review,
5 evaluation, and recommendation of the transportation agency,
6 the review and report of the Commission on Government
7 Forecasting and Accountability, the public hearing, and the
8 best interests of the State.

9 (k) ~~(f)~~ In addition to any other rights under this Act, in
10 connection with any procurement under this Act, the following
11 rights are reserved to each transportation agency:

12 (1) to withdraw a request for information, a request
13 for qualifications, or a request for proposals at any time,
14 and to publish a new request for information, request for
15 qualifications, or request for proposals;

16 (2) to not approve a proposal for any reason;

17 (3) to not award a public-private agreement for any
18 reason;

19 (4) to request clarifications to any statement of
20 information, qualifications, or proposal received, to seek
21 one or more revised proposals or one or more best and final
22 offers, or to conduct negotiations with one or more private
23 entities that have submitted proposals;

24 (5) to modify, during the pendency of a procurement,
25 the terms, provisions, and conditions of a request for
26 information, request for qualifications, or request for

1 proposals or the technical specifications or form of a
2 public-private agreement;

3 (6) to interview proposers; and

4 (7) any other rights available to the transportation
5 agency under applicable law and regulations.

6 (l) ~~(g)~~ If a proposal is approved, the transportation
7 agency shall execute the public-private agreement, publish
8 notice of the execution of the public-private agreement on its
9 website and in a newspaper or newspapers of general circulation
10 within the county or counties in which the transportation
11 project is to be located, and publish the entire agreement on
12 its website. Any action to contest the validity of a
13 public-private agreement entered into under this Act must be
14 brought no later than 60 days after the date of publication of
15 the notice of execution of the public-private agreement.

16 (m) ~~(h)~~ For any transportation project with an estimated
17 construction cost of over \$50,000,000, the transportation
18 agency may also require the approved proposer to pay the costs
19 for an independent audit of any and all traffic and cost
20 estimates associated with the approved proposal, as well as a
21 review of all public costs and potential liabilities to which
22 taxpayers could be exposed (including improvements to other
23 transportation facilities that may be needed as a result of the
24 approved proposal, failure by the approved proposer to
25 reimburse the transportation agency for services provided, and
26 potential risk and liability in the event the approved proposer

1 defaults on the public-private agreement or on bonds issued for
2 the project). If required by the transportation agency, this
3 independent audit must be conducted by an independent
4 consultant selected by the transportation agency, and all
5 information from the review must be fully disclosed.

6 (n) ~~(i)~~ The transportation agency may also apply for,
7 execute, or endorse applications submitted by private entities
8 to obtain federal credit assistance for qualifying projects
9 developed or operated pursuant to this Act.

10 (Source: P.A. 97-502, eff. 8-23-11.)

11 (630 ILCS 5/25)

12 Sec. 25. Design-build procurement.

13 (a) This Section 25 shall apply only to transportation
14 projects for which the Department or the Authority intends to
15 execute a design-build agreement, in which case the Department
16 or the Authority shall abide by the requirements and procedures
17 of this Section 25 in addition to other applicable requirements
18 and procedures set forth in this Act.

19 (b) (1) The transportation agency must issue a notice of
20 intent to receive proposals for the project at least 14 days
21 before issuing the request for the qualifications. The
22 transportation agency must publish the advance notice in a
23 daily newspaper of general circulation in the county where the
24 transportation agency is located. The transportation agency is
25 encouraged to use publication of the notice in related

1 construction industry service publications. A brief
2 description of the proposed procurement must be included in the
3 notice. The transportation agency must provide a copy of the
4 request for qualifications to any party requesting a copy.

5 (2) The request for qualifications shall be prepared for
6 each project and must contain, without limitation, the
7 following information: (i) the name of the transportation
8 agency; (ii) a preliminary schedule for the completion of the
9 contract; (iii) the proposed budget for the project and, the
10 source of funds, to the extent not already reflected in the
11 Department's Multi-Year Highway Improvement Program ~~and the~~
12 ~~currently available funds at the time the request for proposal~~
13 ~~is submitted~~; (iv) the shortlisting process ~~prequalification~~
14 ~~criteria~~ for ~~design-build~~ entities or groups of entities such
15 as unincorporated joint ventures wishing to submit proposals
16 (the transportation agency shall include, at a minimum, its
17 normal prequalification, licensing, registration, and other
18 requirements, but nothing contained herein precludes the use of
19 additional ~~prequalification~~ criteria by the transportation
20 agency); (v) a summary of anticipated material requirements of
21 the contract, including but not limited to, the proposed terms
22 and conditions, required performance and payment bonds,
23 insurance, and the ~~entity's plan to comply with the~~ utilization
24 goals established by the ~~corporate authorities of the~~
25 transportation agency for minority and women business
26 enterprises and compliance ~~to comply~~ with Section 2-105 of the

1 Illinois Human Rights Act; and (vi) ~~the performance criteria;~~
2 ~~(vii) the evaluation criteria for each phase of the~~
3 ~~solicitation; and (viii) the anticipated number of entities~~
4 that will be shortlisted ~~considered~~ for the request for
5 proposals phase.

6 (3) The transportation agency may include any other
7 relevant information in the request for qualifications that it
8 chooses to supply. The private entity shall be entitled to rely
9 upon the accuracy of this documentation in the development of
10 its statement of qualifications and its proposal only to the
11 extent expressly warranted by the transportation agency.

12 (4) The date that statements of qualifications are due must
13 be at least 21 calendar days after the date of the issuance of
14 the request for qualifications. In the event the cost of the
15 project is estimated to exceed \$12,000,000, then the statement
16 of qualifications due date must be at least 28 calendar days
17 after the date of the issuance of the request for
18 qualifications. The transportation agency shall include in the
19 request for proposals a minimum of 30 days to develop the
20 proposals after the selection of entities from the evaluation
21 of the statements of qualifications is completed.

22 (c)(1) The transportation agency shall develop, with the
23 assistance of a licensed design professional, the request for
24 qualifications and the request for proposals, which shall
25 include scope and performance criteria. The scope and
26 performance criteria must be in sufficient detail and contain

1 adequate information to reasonably apprise the private
2 entities of the transportation agency's overall programmatic
3 needs and goals, including criteria and preliminary design
4 plans, general budget parameters, schedule, and delivery
5 requirements.

6 (2) Each request for qualifications and request for
7 proposals shall also include a description of the level of
8 design to be provided in the proposals. This description must
9 include the scope and type of renderings, drawings, and
10 specifications that, at a minimum, will be required by the
11 transportation agency to be produced by the private entities.

12 (3) The scope and performance criteria shall be prepared by
13 a design professional who is an employee of the transportation
14 agency, or the transportation agency may contract with an
15 independent design professional selected under the
16 Architectural, Engineering, and Land Surveying Qualifications
17 Based Selection Act to provide these services.

18 (4) The design professional that prepares the scope and
19 performance criteria is prohibited from participating in any
20 private entity proposal for the project.

21 (d)(1) The transportation agency must use a two phase
22 procedure for the selection of the successful design-build
23 entity. The request for qualifications phase will evaluate and
24 shortlist the private entities based on qualifications, and the
25 request for proposals will evaluate the technical and cost
26 proposals.

1 (2) The transportation agency shall include in the request
2 for qualifications the evaluating factors to be used in the
3 request for qualifications phase. These factors are in addition
4 to any prequalification requirements of private entities that
5 the transportation agency has set forth. Each request for
6 qualifications shall establish the relative importance
7 assigned to each evaluation factor ~~and subfactor~~, including any
8 weighting of criteria to be employed by the transportation
9 agency. The transportation agency must maintain a record of the
10 evaluation scoring to be disclosed in event of a protest
11 regarding the solicitation.

12 The transportation agency shall include the following
13 criteria in every request for qualifications phase evaluation
14 of private entities: (i) experience of personnel; (ii)
15 successful experience with similar project types; (iii)
16 financial capability; (iv) timeliness of past performance; (v)
17 experience with similarly sized projects; (vi) successful
18 reference checks of the firm; (vii) commitment to assign
19 personnel for the duration of the project and qualifications of
20 the entity's consultants; and (viii) ability or past
21 performance in meeting or exhausting good faith efforts to meet
22 the utilization goals for business enterprises established in
23 the Business Enterprise for Minorities, Females, and Persons
24 with Disabilities Act and in complying with Section 2-105 of
25 the Illinois Human Rights Act. No proposal shall be considered
26 that does not include an entity's plan to comply with the

1 requirements regarding ~~established in the~~ minority and women
2 business enterprises and economically disadvantaged firms
3 established by ~~the corporate authorities of~~ the transportation
4 agency and with Section 2-105 of the Illinois Human Rights Act.
5 The transportation agency may include any additional relevant
6 criteria in the request for qualifications phase that it deems
7 necessary for a proper qualification review.

8 Upon completion of the qualifications evaluation, the
9 transportation agency shall create a shortlist of the most
10 highly qualified private entities.

11 The transportation agency shall notify the entities
12 selected for the shortlist in writing. This notification shall
13 commence the period for the preparation of the request for
14 proposals phase technical and cost evaluations. The
15 transportation agency must allow sufficient time for the
16 shortlist entities to prepare their proposals considering the
17 scope and detail requested by the transportation agency.

18 (3) The transportation agency shall include in the request
19 for proposals the evaluating factors to be used in the
20 technical and cost submission components. Each request for
21 proposals shall establish, for both the technical and cost
22 submission components, the relative importance assigned to
23 each evaluation factor ~~and subfactor~~, including any weighting
24 of criteria to be employed by the transportation agency. The
25 transportation agency must maintain a record of the evaluation
26 scoring to be disclosed in event of a protest regarding the

1 solicitation.

2 The transportation agency shall include the following
3 criteria in every request for proposals phase technical
4 evaluation of private entities: (i) compliance with objectives
5 of the project; (ii) compliance of proposed services to the
6 request for proposal requirements; (iii) compliance with the
7 request for proposal requirements ~~quality~~ of products or
8 materials proposed; (iv) quality of design parameters; and (v)
9 design concepts; ~~(vi) innovation in meeting the scope and~~
10 ~~performance criteria; and (vii) constructability of the~~
11 ~~proposed project~~. The transportation agency may include any
12 additional relevant technical evaluation factors it deems
13 necessary for proper selection.

14 The transportation agency shall include the following
15 criteria in every request for proposals phase cost evaluation:
16 the total project cost and the time of completion. The
17 transportation agency may include any additional relevant
18 technical evaluation factors it deems necessary for proper
19 selection. The guaranteed maximum project cost criteria
20 weighing factor shall not exceed 30%.

21 The transportation agency shall directly employ or retain a
22 licensed design professional to evaluate the technical and cost
23 submissions to determine if the technical submissions are in
24 accordance with generally accepted industry standards.

25 (e) Statements of qualifications and proposals must be
26 properly identified and sealed. Statements of qualifications

1 and proposals may not be reviewed until after the deadline for
2 submission has passed as set forth in the request for
3 qualifications or the request for proposals. All private
4 entities submitting statements of qualifications or proposals
5 shall be disclosed after the deadline for submission, and all
6 private entities who are selected for request for proposals
7 phase evaluation shall also be disclosed at the time of that
8 determination.

9 Design-build ~~Phase II design-build~~ proposals shall include
10 a bid bond in the form and security as designated in the
11 request for proposals. Proposals shall also contain a separate
12 sealed envelope with the cost information within the overall
13 proposal submission. Proposals shall include a list of all
14 design professionals and other entities to which any work
15 identified in Section 30-30 of the Illinois Procurement Code as
16 a subdivision of construction work may be subcontracted during
17 the performance of the contract to the extent known at the time
18 of proposal. If the information is not known at the time of
19 proposal, then the design-build agreement shall require the
20 identification prior to a previously unlisted subcontractor
21 commencing work on the transportation project.

22 Statements of qualifications and proposals must meet all
23 material requirements of the request for qualifications or
24 request for proposals, or else they may be rejected as
25 non-responsive. The transportation agency shall have the right
26 to reject any and all statements of qualifications and

1 proposals.

2 The private entity's proprietary intellectual property
3 contained in the drawings and specifications of any
4 unsuccessful statement of qualifications or proposal shall
5 remain the property of the private entity.

6 The transportation agency shall review the statements of
7 qualifications and the proposals for compliance with the
8 performance criteria and evaluation factors.

9 Statements of qualifications and proposals may be
10 withdrawn prior to the due date and time for submissions for
11 any cause. After evaluation begins by the transportation
12 agency, clear and convincing evidence of error is required for
13 withdrawal.

14 (Source: P.A. 97-502, eff. 8-23-11.)

15 (630 ILCS 5/35)

16 Sec. 35. Public-private agreements.

17 (a) Unless undertaking actions otherwise permitted in an
18 interim agreement entered into under Section 30 of this Act,
19 before developing, financing, or operating the transportation
20 project, the approved proposer shall enter into a
21 public-private agreement with the transportation agency.
22 Subject to the requirements of this Act, a public-private
23 agreement may provide that the approved proposer, acting on
24 behalf of the transportation agency, is partially or entirely
25 responsible for any combination of developing, financing, or

1 operating the transportation project under terms set forth in
2 the public-private agreement.

3 (b) The public-private agreement may, as determined
4 appropriate by the transportation agency for the particular
5 transportation project, provide for some or all of the
6 following:

7 (1) Development ~~Construction~~, financing, and operation
8 of the transportation project under terms set forth in the
9 public-private agreement, in any form as deemed
10 appropriate by the transportation agency, including, but
11 not limited to, a long-term concession and lease, a
12 design-bid-build agreement, a design-build agreement, a
13 design-build-maintain agreement, a design-build-finance
14 agreement, a design-build-operate-maintain agreement and a
15 design-build-finance-operate-maintain agreement.

16 (2) Delivery of performance and payment bonds or other
17 performance security determined suitable by the
18 transportation agency, including letters of credit, United
19 States bonds and notes, parent guaranties, and cash
20 collateral, in connection with the development, financing,
21 or operation of the transportation project, in the forms
22 and amounts set forth in the public-private agreement or
23 otherwise determined as satisfactory by the transportation
24 agency to protect the transportation agency and payment
25 bond beneficiaries who have a direct contractual
26 relationship with the contractor or a subcontractor of the

1 contractor to supply labor or material. The payment or
2 performance bond or alternative form of performance
3 security is not required for the portion of a
4 public-private agreement that includes only design,
5 planning, or financing services, the performance of
6 preliminary studies, or the acquisition of real property.

7 (3) Review of plans for any development or operation,
8 or both, of the transportation project by the
9 transportation agency.

10 (4) Inspection of any construction of or improvements
11 to the transportation project by the transportation agency
12 or another entity designated by the transportation agency
13 or under the public-private agreement to ensure that the
14 construction or improvements conform to the standards set
15 forth in the public-private agreement or are otherwise
16 acceptable to the transportation agency.

17 (5) Maintenance of:

18 (A) one or more policies of public liability
19 insurance (copies of which shall be filed with the
20 transportation agency accompanied by proofs of
21 coverage); or

22 (B) self-insurance;

23 each in form and amount as set forth in the public-private
24 agreement or otherwise satisfactory to the transportation
25 agency as reasonably sufficient to insure coverage of tort
26 liability to the public and employees and to enable the

1 continued operation of the transportation project.

2 (6) Where operations are included within the
3 contractor's obligations under the public-private
4 agreement, monitoring of the maintenance practices of the
5 contractor by the transportation agency or another entity
6 designated by the transportation agency or under the
7 public-private agreement and the taking of the actions the
8 transportation agency finds appropriate to ensure that the
9 transportation project is properly maintained.

10 (7) Reimbursement to be paid to the transportation
11 agency as set forth in the public-private agreement for
12 services provided by the transportation agency.

13 (8) Filing of appropriate financial statements and
14 reports as set forth in the public-private agreement or as
15 otherwise in a form acceptable to the transportation agency
16 on a periodic basis.

17 (9) Compensation or payments to the contractor.
18 Compensation or payments may include any or a combination
19 of the following:

20 (A) a base fee and additional fee for project
21 savings as the design-builder of a construction
22 project;

23 (B) a development fee, payable on a lump-sum basis,
24 progress payment basis, time and materials basis, or
25 another basis deemed appropriate by the transportation
26 agency;

1 (C) an operations fee, payable on a lump-sum basis,
2 time and material basis, periodic basis, or another
3 basis deemed appropriate by the transportation agency;

4 (D) some or all of the revenues, if any, arising
5 out of operation of the transportation project;

6 (E) a maximum rate of return on investment or
7 return on equity or a combination of the two;

8 (F) in-kind services, materials, property,
9 equipment, or other items;

10 (G) compensation in the event of any termination;

11 (H) availability payments or similar arrangements
12 whereby payments are made to the contractor pursuant to
13 the terms set forth in the public-private agreement or
14 related agreements; or

15 (I) other compensation set forth in the
16 public-private agreement or otherwise deemed
17 appropriate by the transportation agency.

18 (10) Compensation or payments to the transportation
19 agency, if any. Compensation or payments may include any or
20 a combination of the following:

21 (A) a concession or lease payment or other fee,
22 which may be payable upfront or on a periodic basis or
23 on another basis deemed appropriate by the
24 transportation agency;

25 (B) sharing of revenues, if any, from the operation
26 of the transportation project;

1 (C) sharing of project savings from the
2 construction of the transportation project;

3 (D) payment for any services, materials,
4 equipment, personnel, or other items provided by the
5 transportation agency to the contractor under the
6 public-private agreement or in connection with the
7 transportation project; or

8 (E) other compensation set forth in the
9 public-private agreement or otherwise deemed
10 appropriate by the transportation agency.

11 (11) The date and terms of termination of the
12 contractor's authority and duties under the public-private
13 agreement and the circumstances under which the
14 contractor's authority and duties may be terminated prior
15 to that date.

16 (12) Reversion of the transportation project to the
17 transportation agency at the termination or expiration of
18 the public-private agreement.

19 (13) Rights and remedies of the transportation agency
20 in the event that the contractor defaults or otherwise
21 fails to comply with the terms of the public-private
22 agreement.

23 (14) Procedures for the selection of professional
24 design firms and subcontractors, which shall include
25 procedures consistent with the Architectural, Engineering,
26 and Land Surveying Qualifications Based Selection Act for

1 the selection of professional design firms and may include,
2 in the discretion of the transportation agency, procedures
3 consistent with the low bid procurement procedures
4 outlined in the Illinois Procurement Code for the selection
5 of construction companies.

6 (15) Other terms, conditions, and provisions that the
7 transportation agency believes are in the public interest.

8 (c) The transportation agency may fix and revise the
9 amounts of user fees that a contractor may charge and collect
10 for the use of any part of a transportation project in
11 accordance with the public-private agreement. In fixing the
12 amounts, the transportation agency may establish maximum
13 amounts for the user fees and may provide that the maximums and
14 any increases or decreases of those maximums shall be based
15 upon the indices, methodologies, or other factors the
16 transportation agency considers appropriate.

17 (d) A public-private agreement may:

18 (1) authorize the imposition of tolls in any manner
19 determined appropriate by the transportation agency for
20 the transportation project;

21 (2) authorize the contractor to adjust the user fees
22 for the use of the transportation project, so long as the
23 amounts charged and collected by the contractor do not
24 exceed the maximum amounts established by the
25 transportation agency under the public-private agreement
26 ~~this Act;~~

1 (3) provide that any adjustment by the contractor
2 permitted under paragraph (2) of this subsection (d) may be
3 based on the indices, methodologies, or other factors
4 described in the public-private agreement or approved by
5 the transportation agency;

6 (4) authorize the contractor to charge and collect user
7 fees through methods, including, but not limited to,
8 automatic vehicle identification systems, electronic toll
9 collection systems, and, to the extent permitted by law,
10 global positioning system-based, photo-based, or
11 video-based toll collection enforcement, provided that to
12 the maximum extent feasible the contractor will (i) utilize
13 open road tolling methods that allow payment of tolls at
14 highway speeds and (ii) comply with United States
15 Department of Transportation requirements and best
16 practices with respect to tolling methods; and

17 (5) authorize the collection of user fees by a third
18 party.

19 (e) In the public-private agreement, the transportation
20 agency may agree to make grants or loans for the development or
21 operation, or both, of the transportation project from time to
22 time from amounts received from the federal government or any
23 agency or instrumentality of the federal government or from any
24 State or local agency.

25 (f) Upon the termination or expiration of the
26 public-private agreement, including a termination for default,

1 the transportation agency shall have the right to take over the
2 transportation project and to succeed to all of the right,
3 title, and interest in the transportation project, ~~subject to~~
4 ~~any liens on revenues previously granted by the contractor to~~
5 ~~any person providing financing for the transportation project.~~

6 Upon termination or expiration of the public-private agreement
7 relating to a transportation project undertaken by the
8 Department, all real property acquired as a part of the
9 transportation project shall be held in the name of the State
10 of Illinois. Upon termination or expiration of the
11 public-private agreement relating to a transportation project
12 undertaken by the Authority, all real property acquired as a
13 part of the transportation project shall be held in the name of
14 the Authority.

15 (g) If a transportation agency elects to take over a
16 transportation project as provided in subsection (f) of this
17 Section, the transportation agency may do the following:

18 (1) develop, finance, or operate the project,
19 including through a public-private agreement entered into
20 in accordance with this Act; or

21 (2) impose, collect, retain, and use user fees, if any,
22 for the project.

23 (h) If a transportation agency elects to take over a
24 transportation project as provided in subsection (f) of this
25 Section, the transportation agency may use the revenues, if
26 any, for any lawful purpose, including to:

1 (1) make payments to individuals or entities in
2 connection with any financing of the transportation
3 project, including through a public-private agreement
4 entered into in accordance with this Act;

5 (2) permit a contractor to receive some or all of the
6 revenues under a public-private agreement entered into
7 under this Act;

8 (3) pay development costs of the project;

9 (4) pay current operation costs of the project or
10 facilities;

11 (5) pay the contractor for any compensation or payment
12 owing upon termination; and

13 (6) pay for the development, financing, or operation of
14 any other project or projects the transportation agency
15 deems appropriate.

16 (i) The full faith and credit of the State or any political
17 subdivision of the State or the transportation agency is not
18 pledged to secure any financing of the contractor by the
19 election to take over the transportation project. Assumption of
20 development or operation, or both, of the transportation
21 project does not obligate the State or any political
22 subdivision of the State or the transportation agency to pay
23 any obligation of the contractor.

24 (j) The transportation agency may enter into a
25 public-private agreement with multiple approved proposers if
26 the transportation agency determines in writing that it is in

1 the public interest to do so.

2 (k) A public-private agreement shall not include any
3 provision under which the transportation agency agrees to
4 restrict or to provide compensation to the private entity for
5 the construction or operation of a competing transportation
6 facility during the term of the public-private agreement.

7 (l) With respect to a public-private agreement entered into
8 by the Department, the Department shall certify in its State
9 budget request to the Governor each year the amount required by
10 the Department during the next State fiscal year to enable the
11 Department to make any payment obligated to be made by the
12 Department pursuant to that public-private agreement, and the
13 Governor shall include that amount in the State budget
14 submitted to the General Assembly.

15 (Source: P.A. 97-502, eff. 8-23-11.)

16 (630 ILCS 5/40)

17 Sec. 40. Development and operations standards for
18 transportation projects.

19 (a) The plans and specifications, if any, for each project
20 developed under this Act must comply with:

21 (1) the transportation agency's standards for other
22 projects of a similar nature or as otherwise provided in
23 the public-private agreement;

24 (2) the Professional Engineering Practice Act of 1989,
25 the Structural Engineering Practice Act of 1989, the

1 Illinois Architecture Practice Act of 1989, the
2 requirements of Section 30-22 of the Illinois Procurement
3 Code as they apply to responsible bidders, and the Illinois
4 Professional Land Surveyor Act of 1989; and

5 (3) any other applicable State or federal standards.

6 (b) Each highway project constructed or operated under this
7 Act is considered to be part of:

8 (1) the State highway system for purposes of
9 identification, maintenance standards, and enforcement of
10 traffic laws if the highway project is under the
11 jurisdiction of the Department; or

12 (2) the toll highway system for purposes of
13 identification, maintenance standards, and enforcement of
14 traffic laws if the highway project is under the
15 jurisdiction of the Authority.

16 (c) Any unit of local government or State agency may enter
17 into agreements with the contractor for maintenance or other
18 services under this Act.

19 (d) Any electronic toll collection system used on a toll
20 highway, bridge, or tunnel as part of a transportation project
21 must be compatible with the electronic toll collection system
22 used by the Authority. The Authority is authorized to
23 construct, operate, and maintain any electronic toll
24 collection system used on a toll highway, bridge, or tunnel as
25 part of a transportation project pursuant to an agreement with
26 the transportation agency or the contractor responsible for the

1 transportation project. All private entities and public
2 agencies shall have an equal opportunity to contract with the
3 Authority to provide construction, operation, and maintenance
4 services. In addition, during the procurement of a
5 public-private agreement, these construction, operation, and
6 maintenance services shall be available under identical terms
7 to each private entity participating in the procurement. To the
8 extent that a public-private agreement or an agreement with a
9 public agency under subsection (c) of Section 20 of this Act
10 authorizes tolling, the transportation agencies and any
11 contractor under a public-private partnership or a public
12 agency under an agreement pursuant to subsection (c) of Section
13 20 of this Act shall comply with subsection (a-5) of Section 10
14 of the Toll Highway Act as it relates to toll enforcement.

15 (Source: P.A. 97-502, eff. 8-23-11.)

16 (630 ILCS 5/45)

17 Sec. 45. Financial arrangements.

18 (a) The transportation agency may do any combination of
19 applying for, executing, or endorsing applications submitted
20 by private entities to obtain federal, State, or local credit
21 assistance for transportation projects developed, financed, or
22 operated under this Act, including loans, lines of credit, and
23 guarantees.

24 (b) The transportation agency may take any action to obtain
25 federal, State, or local assistance for a transportation

1 project that serves the public purpose of this Act and may
2 enter into any contracts required to receive the federal
3 assistance. The transportation agency may determine that it
4 serves the public purpose of this Act for all or any portion of
5 the costs of a transportation project to be paid, directly or
6 indirectly, from the proceeds of a grant or loan, line of
7 credit, or loan guarantee made by a local, State, or federal
8 government or any agency or instrumentality of a local, State,
9 or federal government. Such assistance may include, but not be
10 limited to, federal credit assistance pursuant to the
11 Transportation Infrastructure Finance and Innovation Act
12 (TIFIA).

13 (c) The transportation agency may agree to make grants or
14 loans for the development, financing, or operation of a
15 transportation project from time to time, from amounts received
16 from the federal, State, or local government or any agency or
17 instrumentality of the federal, State, or local government.

18 (d) Any financing of a transportation project may be in the
19 amounts and upon the terms and conditions that are determined
20 by the parties to the public-private agreement.

21 (e) For the purpose of financing a transportation project,
22 the contractor and the transportation agency may do the
23 following:

24 (1) propose to use any and all revenues that may be
25 available to them;

26 (2) enter into grant agreements;

1 (3) access any other funds available to the
2 transportation agency; and

3 (4) accept grants from the transportation agency or
4 other public or private agency or entity.

5 (f) For the purpose of financing a transportation project,
6 public funds may be used and mixed and aggregated with funds
7 provided by or on behalf of the contractor or other private
8 entities.

9 (g) For the purpose of financing a transportation project,
10 each transportation agency is authorized to do any combination
11 of applying for, executing, or endorsing applications for an
12 allocation of tax-exempt bond financing authorization provided
13 by Section 142(m) of the United States Internal Revenue Code,
14 as well as financing available under any other federal law or
15 program.

16 (h) Any bonds, debt, or other securities or other financing
17 issued by or on behalf of a contractor for the purposes of a
18 project undertaken under this Act shall not be deemed to
19 constitute a debt of the State or any political subdivision of
20 the State or a pledge of the faith and credit of the State or
21 any political subdivision of the State.

22 (Source: P.A. 97-502, eff. 8-23-11.)

23 (630 ILCS 5/90 new)

24 Sec. 90. Public-Private Partnerships for Transportation
25 Fund. The Public-Private Partnerships for Transportation Fund

1 is created as a special fund in the State treasury. Moneys in
2 the Public-Private Partnerships for Transportation Fund shall
3 be appropriated to the Department of Transportation to promote
4 the development, financing, and operation of transportation
5 facilities under this Act. Investment income which is
6 attributable to the investment of moneys in the Public-Private
7 Partnerships for Transportation Fund shall be retained in the
8 Public-Private Partnerships for Transportation Fund.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.