



Sen. Toi W. Hutchinson

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1 AMENDMENT TO HOUSE BILL 1075

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1075, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Illiana Expressway Public-Private Partnerships for  
7 Transportation Act.

8 Section 5. Public policy and legislative intent.

9 (a) It is the public policy of the State of Illinois to  
10 promote the development, financing, and operation of  
11 transportation facilities that serve the needs of the public,  
12 whether through traditional or innovative methods.

13 (b) Several states, including the State of Indiana, have  
14 utilized public-private partnerships as a successful and  
15 innovative method to develop, finance, and operate  
16 transportation facilities in a timely, efficient, and

1 cost-effective fashion and thereby advancing the public's  
2 needs and interests.

3 (c) The State of Illinois and the State of Indiana have  
4 undertaken cooperative planning efforts to create a new  
5 interstate highway connecting Interstate Highway 55 in  
6 Illinois to Interstate Highway 65 in Indiana to serve the  
7 public, commonly known as the Illiana Expressway.

8 (d) The creation of the Illiana Expressway will promote  
9 development and investment in the State of Illinois and serve  
10 as a critical transportation in the region.

11 (e) The State of Indiana will develop, finance, and operate  
12 its portion of the Illiana Expressway as a public-private  
13 partnership through existing statutory authority.

14 (f) To ensure that the State of Illinois remains at the  
15 forefront of providing premier transportation facilities and  
16 Illinois continues its cooperative efforts with the State of  
17 Indiana, it is in the public interest to permit the Department  
18 of Transportation, on a pilot-project basis, to enter into a  
19 public-private partnership to develop, finance, and operate  
20 the new Illiana Expressway.

21 (g) This Act is intended to be used as a framework for  
22 future public-private partnerships authorized by law based  
23 upon the State of Illinois' experience with creating the  
24 Illiana Expressway via public-private partnership.

25 (h) It is the intent of this Act to encourage the practice  
26 of congestion pricing in connection with the Illiana Expressway

1 as a toll highway, pursuant to which higher toll rates are  
2 charged during times or in locations of most congestion.

3 (i) It is the intent of this Act to use Illinois design  
4 professionals, construction companies, and workers to the  
5 greatest extent permitted by law by offering them the right to  
6 compete for this work.

7 Section 10. Definitions.

8 As used in this Act:

9 "Approved proposal" means the proposal that is approved by  
10 the Department pursuant to subsection (h) of Section 20 of this  
11 Act.

12 "Approved proposer" means the private entity whose  
13 proposal is the approved proposal.

14 "Competing proposal" means a proposal submitted by a  
15 private entity in connection with the proposed Illiana  
16 Expressway.

17 "Contractor" means a private entity that has entered into  
18 the public-private agreement with the Department to provide  
19 services to or on behalf of the Department.

20 "Department" means the Illinois Department of  
21 Transportation.

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

25 "Illiana" means the fully access-controlled Illiana

1 Expressway connecting northwestern Indiana and northeastern  
2 Illinois, as a toll or non-toll facility, connecting Interstate  
3 55 in northeastern Illinois with Interstate 65 in northwestern  
4 Indiana.

5 "Maintain" or "maintenance" includes ordinary maintenance,  
6 repair, rehabilitation, capital maintenance, maintenance  
7 replacement, and any other categories of maintenance that may  
8 be designated by the Department.

9 "Metropolitan planning organization" means a metropolitan  
10 planning organization designated under 23 U.S.C. Section 134  
11 whose metropolitan planning area boundaries are partially or  
12 completely within the State.

13 "Operate" or "operation" means to do one or more of the  
14 following: maintain, improve, equip, modify, or otherwise  
15 operate.

16 "Private entity" means any combination of one or more  
17 individuals, corporations, general partnerships, limited  
18 liability companies, limited partnerships, joint ventures,  
19 business trusts, nonprofit entities, or other business  
20 entities that are parties to a proposal for Illiana or an  
21 agreement related to Illiana. A public agency may provide  
22 services to a contractor as a subcontractor or subconsultant  
23 without affecting the private status of the private entity and  
24 the ability to enter into the public-private agreement.

25 "Procurement Policy Board" has the meaning ascribed to that  
26 term by Section 1-15.05 and Article 5 of the Illinois

1 Procurement Code.

2 "Proposal" means all materials and documents prepared by or  
3 on behalf of a private entity relating to the proposed  
4 development, financing, or operation of Illiana.

5 "Proposer" means a private entity that has submitted a  
6 proposal or statement of qualifications for the public-private  
7 agreement in response to a request for proposals or a request  
8 for qualifications issued by the Department under this Act.

9 "Public-private agreement" means the public-private  
10 agreement between the contractor and the Department relating to  
11 the development, financing, or operation of Illiana that is  
12 entered into under this Act.

13 "Request for proposals" means all materials and documents  
14 prepared by or on behalf of the Department to solicit proposals  
15 from private entities to enter into the public-private  
16 agreement.

17 "Request for qualifications" means all materials and  
18 documents prepared by or on behalf of the Department to solicit  
19 statements of qualification from private entities to enter into  
20 the public-private agreement.

21 "Revenues" means all revenues, including any combination  
22 of: income; earnings and interest; user fees; lease payments;  
23 allocations; federal, State, and local appropriations, grants,  
24 loans, lines of credit, and credit guarantees; bond proceeds;  
25 equity investments; service payments; or other receipts;  
26 arising out of or in connection with Illiana, including the

1 development, financing, and operation of Illiana. The term  
2 includes money received as grants, loans, lines of credit,  
3 credit guarantees, or otherwise in aid of Illiana from the  
4 federal government, the State, a unit of local government, or  
5 any agency or instrumentality of the federal government, the  
6 State, or a unit of local government.

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

11 "User fees" or "tolls" means the rates, tolls, fees, or  
12 other charges imposed by the contractor for use of all or a  
13 portion of Illiana under the public-private agreement.

14 Section 15. Formation of Illiana public-private agreement;  
15 project planning.

16 (a) The Department may exercise the powers granted by this  
17 Act to do some or all of: develop, finance, and operate any  
18 part of Illiana through public-private agreements with one or  
19 more private entities. The net proceeds arising out of the  
20 public-private agreement undertaken by the Department pursuant  
21 to this Act shall be deposited into the Road Fund.

22 (b) A contractor has:

23 (1) all powers allowed by law generally to a private  
24 entity having the same form of organization as the  
25 contractor; and

1           (2) the power to develop, finance, and operate Illiana  
2           and to impose user fees in connection with the use of  
3           Illiana, subject to the terms of the public-private  
4           agreement.

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

7           (c) At least 30 days prior to the beginning of the  
8           Department's fiscal year, the Department shall submit a  
9           description of the potential Illiana project that the  
10          Department is considering undertaking under this Act to the  
11          Procurement Policy Board and each county, municipality, and  
12          metropolitan planning organization, with respect to where  
13          Illiana is located within its boundaries.

14          (d) The Illiana project undertaken under this Act shall be  
15          subject to all applicable planning requirements otherwise  
16          required by law, including land use planning, regional  
17          planning, transportation planning, and environmental  
18          compliance requirements.

19          Section 20. Procurement process.

20          (a) The Department shall prepare monthly written updates on  
21          the status of the implementation of this Act and provide the  
22          written updates to the Procurement Policy Board. The Board may  
23          determine the format for the written updates. The Department  
24          shall also respond promptly in writing to all inquiries and  
25          comments of the Procurement Policy Board with respect to any

1 conduct taken by the Department to implement, execute, or  
2 administer the provisions of this Act. Upon request, the  
3 Department shall also appear and testify before the Procurement  
4 Policy Board and produce any information requested by the  
5 Procurement Policy Board.

6 (b) The Department shall determine and set forth the  
7 criteria for the selection process for Illiana. The Department  
8 shall use: (i) a competitive sealed bidding process; (ii) a  
9 competitive sealed proposal process; (iii) a design-build  
10 procurement process in accordance with Section 25 of this Act;  
11 or (iv) any other selection process that the Department  
12 determines is in the best interests of the State and the  
13 public. In determining the selection process, the Department  
14 shall consider how the process would result in the selection of  
15 a proposal that offers the public the best value, the lowest  
16 price or cost, the highest payment to or revenue sharing with  
17 the Department, and the imposition of tolls for the shortest  
18 period of time. If the Department elects to utilize the  
19 selection process in item (iv) of this subsection, the  
20 Department shall set forth the process in writing along with  
21 the reasons for electing to use the selection process. The  
22 Department shall submit the written explanation detailing the  
23 selection process to the Procurement Policy Board for the  
24 Board's review and approval. The Procurement Policy Board shall  
25 have 30 days from the date of receipt of the Department's  
26 written explanation to conduct the review and, in the Board's



1 discretion, approve the Department's elected selection  
2 process. The Department shall not proceed to implement a  
3 selection process under item (iv) of this subsection without  
4 the approval of the Procurement Policy Board.

5 The selection of professional design firms by the  
6 Department or private entity shall comply with the  
7 Architectural, Engineering, and Land Surveying Qualifications  
8 Based Selection Act or Section 25 of this Act.

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

12 (c) The Department may establish a process for  
13 prequalification of all potential private entities. If so, then  
14 the Department shall: (i) provide a public notice of the  
15 prequalification process for such period as deemed appropriate  
16 by the Department; (ii) set forth requirements and evaluation  
17 criteria in order to become prequalified; (iii) determine which  
18 private entities that have submitted prequalification  
19 applications, if any, meet the requirements and evaluation  
20 criteria; and (iv) allow only those entities that have been  
21 prequalified to submit proposals or bids. The Department shall  
22 make publicly available on its website during the request for  
23 qualifications period information regarding firms that are  
24 prequalified by the Department pursuant to Section 20 of the  
25 Architectural, Engineering, and Land Surveying Qualifications  
26 Based Selection Act to provide architectural, engineering, and

1 land surveying services and shall require the use of such firms  
2 for such services.

3 (d) Competitive sealed bidding requirements:

4 (1) All contracts shall be awarded by competitive  
5 sealed bidding except as otherwise provided in this Section  
6 and Section 25 of this Act.

7 (2) An invitation for bids shall be issued and shall  
8 include a description of the public-private partnership  
9 with a private entity for the development, finance, and  
10 operation of Illiana, and the material contractual terms  
11 and conditions applicable to the procurement.

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

16 (4) Bids shall be opened publicly in the presence of  
17 one or more witnesses at the time and place designated in  
18 the invitation for bids. The name of each bidder, the  
19 amount of each bid, and other relevant information as may  
20 be specified by rule shall be recorded. After the award of  
21 the contract, the winning bid and the record of each  
22 unsuccessful bid shall be open to public inspection.

23 (5) Bids shall be unconditionally accepted without  
24 alteration or correction, except as authorized in this Act.  
25 Bids shall be evaluated based on the requirements set forth  
26 in the invitation for bids, which may include criteria to

1 determine acceptability such as inspection, testing,  
2 quality, workmanship, delivery, and suitability for a  
3 particular purpose. Those criteria that will affect the bid  
4 price and be considered in evaluation for award, such as  
5 discounts, transportation costs, and total or life cycle  
6 costs, shall be objectively measurable. The invitation for  
7 bids shall set forth the evaluation criteria to be used.

8 (6) Correction or withdrawal of inadvertently  
9 erroneous bids before or after award, or cancellation of  
10 awards of contracts based on bid mistakes, shall be  
11 permitted in accordance with rules. After bid opening, no  
12 changes in bid prices or other provisions of bids  
13 prejudicial to the interest of the State or fair  
14 competition shall be permitted. All decisions to permit the  
15 correction or withdrawal of bids based on bid mistakes  
16 shall be supported by written determination made by the  
17 Department.

18 (7) The contract shall be awarded with reasonable  
19 promptness by written notice to the lowest responsible and  
20 responsive bidder whose bid meets the requirements and  
21 criteria set forth in the invitation for bids, except when  
22 the Department determines it is not in the best interest of  
23 the State and by written explanation determines another  
24 bidder shall receive the award. The explanation shall  
25 appear in the appropriate volume of the State of Illinois  
26 Procurement Bulletin. The written explanation must

1 include:

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

3 (B) a determination that the anticipated cost will  
4 be fair and reasonable;

5 (C) a listing of all responsible and responsive  
6 bidders; and

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

9 (8) When it is considered impracticable to initially  
10 prepare a purchase description to support an award based on  
11 price, an invitation for bids may be issued requesting the  
12 submission of unpriced offers to be followed by an  
13 invitation for bids limited to those bidders whose offers  
14 have been qualified under the criteria set forth in the  
15 first solicitation.

16 (e) Competitive sealed proposal requirements:

17 (1) When the Department determines in writing that the  
18 use of competitive sealed bidding or design-build  
19 procurement is either not practicable or not advantageous  
20 to the State, a contract may be entered into by competitive  
21 sealed proposals.

22 (2) Proposals shall be solicited through a request for  
23 proposals.

24 (3) Public notice of the request for proposals shall be  
25 published in the State of Illinois Procurement Bulletin at  
26 least 21 days before the date set in the invitation for the

1 opening of proposals.

2 (4) Proposals shall be opened publicly in the presence  
3 of one or more witnesses at the time and place designated  
4 in the request for proposals, but proposals shall be opened  
5 in a manner to avoid disclosure of contents to competing  
6 offerors during the process of negotiation. A record of  
7 proposals shall be prepared and shall be open for public  
8 inspection after contract award.

9 (5) The requests for proposals shall state the relative  
10 importance of price and other evaluation factors.  
11 Proposals shall be submitted in 2 parts: (i) covering items  
12 except price; and (ii) covering price. The first part of  
13 all proposals shall be evaluated and ranked independently  
14 of the second part of all proposals.

15 (6) As provided in the request for proposals and under  
16 any applicable rules, discussions may be conducted with  
17 responsible offerors who submit proposals determined to be  
18 reasonably susceptible of being selected for award for the  
19 purpose of clarifying and assuring full understanding of  
20 and responsiveness to the solicitation requirements. Those  
21 offerors shall be accorded fair and equal treatment with  
22 respect to any opportunity for discussion and revision of  
23 proposals. Revisions may be permitted after submission and  
24 before award for the purpose of obtaining best and final  
25 offers. In conducting discussions there shall be no  
26 disclosure of any information derived from proposals

1 submitted by competing offerors. If information is  
2 disclosed to any offeror, it shall be provided to all  
3 competing offerors.

4 (7) Awards shall be made to the responsible offeror  
5 whose proposal is determined in writing to be the most  
6 advantageous to the State, taking into consideration price  
7 and the evaluation factors set forth in the request for  
8 proposals. The contract file shall contain the basis on  
9 which the award is made.

10 (f) Based on its review and evaluation of the proposal or  
11 proposals received in response to the request for proposals,  
12 the Department shall determine which one or more proposals, if  
13 any, best serve the public purpose of this Act and satisfy the  
14 criteria set forth in the request for proposals and may approve  
15 such proposal or proposals. The Department shall submit the  
16 proposal or proposals determined to best serve the public  
17 purpose of this Act and to satisfy the criteria set forth in  
18 the request for proposals to the Commission on Government  
19 Forecasting and Accountability and the Procurement Policy  
20 Board, which, within 30 days of the submission by the  
21 Department, shall complete a review of the proposal or  
22 proposals and, jointly or separately, report on, at a minimum,  
23 the value of the proposal or proposals to the State as measured  
24 against the purpose of this Act and criteria set forth in the  
25 request for proposals. The Department shall not approve a  
26 proposal until it has received and considered the findings of

1 the Commission on Government Forecasting and Accountability  
2 and the Procurement Policy Board as set forth in their  
3 respective reports.

4 (g) Before awarding a public private partnership to an  
5 offeror, the Department shall schedule and hold a public  
6 hearing or hearings on the proposed public-private partnership  
7 agreement and publish notice of the hearing or hearings at  
8 least 7 days before the hearing and in accordance with Section  
9 4-219 of the Illinois Highway Code. The notice must include the  
10 following:

11 (1) the date, time, and place of the hearing and the  
12 address of the Department;

13 (2) the subject matter of the hearing;

14 (3) a description of the agreement to be awarded; and

15 (4) the recommendation that has been made to award the  
16 agreement to an identified contractor.

17 At the hearing, the Department shall allow the public to be  
18 heard on the proposed public-private agreement.

19 (h) After the procedures required in this Section have been  
20 completed, the Department shall make a determination as to  
21 whether the successful contractor should be designated as  
22 Illiana approved proposal and shall submit the decision to the  
23 Governor and to the Governor's Office of Management and Budget.  
24 After review of the Department's determination, the Governor  
25 may accept or reject the determination. If the Governor accepts  
26 the determination of the Department, the Governor shall

1 designate the successful approved proposal as the operator for  
2 Illiana.

3 (i) In addition to any other rights under this Act, in  
4 connection with any procurement under this Act, the following  
5 rights are reserved by the Department:

6 (1) to withdraw a request for qualifications or a  
7 request for proposals at any time, and to publish a new  
8 request for qualifications or request for proposals;

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

10 (3) to not award the public-private agreement for any  
11 reason;

12 (4) to request clarifications to any statement of  
13 qualifications or proposal received, to seek one or more  
14 revised proposals or one or more best and final offers, or  
15 to conduct negotiations with one or more private entities  
16 that have submitted proposals;

17 (5) to modify, during the pendency of a procurement,  
18 the terms, provisions, and conditions of a request for  
19 qualifications or request for proposals or the technical  
20 specifications or form of the public-private agreement;

21 (6) to interview proposers; and

22 (7) any other rights available to the Department under  
23 applicable law and regulations.

24 (j) If the Department and the Governor designates an  
25 approved proposer for Illiana, the Department shall execute the  
26 public-private agreement, publish notice of the execution of



1 the public-private agreement on its website and in a newspaper  
2 or newspapers of general circulation within the county or  
3 counties in which Illiana is to be located, and publish the  
4 entire agreement on its website.

5 (k) If the estimated construction cost is over \$50,000,000,  
6 the Department must also require the approved proposer to pay  
7 the costs for an independent audit of any and all traffic and  
8 cost estimates associated with the approved proposal, as well  
9 as a review of all public costs and potential liabilities to  
10 which taxpayers could be exposed (including improvements to  
11 other transportation facilities that may be needed as a result  
12 of the approved proposal, failure by the approved proposer to  
13 reimburse the Department for services provided, and potential  
14 risk and liability in the event the approved proposer defaults  
15 on the public-private agreement or on bonds issued for the  
16 project). This independent audit must be conducted by an  
17 independent consultant selected by the Department.

18 (l) The Department may also apply for, execute, or endorse  
19 applications submitted by private entities to obtain federal  
20 credit assistance for the Illiana project under this Act.

21 Section 25. Design-build procurement.

22 (a) This Section 25 shall apply only if the Department  
23 intends to execute a design-build agreement, in which case the  
24 Department shall abide by the requirements and procedures of  
25 this Section 25 in addition to other applicable requirements

1 and procedures set forth in this Act.

2 (b) (1) The Department must issue a notice of intent to  
3 receive proposals for the project at least 14 days before  
4 issuing the request for the qualifications. The Department must  
5 publish the advance notice in a daily newspaper of general  
6 circulation in the county where the Department is located. The  
7 Department is encouraged to use publication of the notice in  
8 related construction industry service publications. A brief  
9 description of the proposed procurement must be included in the  
10 notice. The Department must provide a copy of the request for  
11 qualifications to any party requesting a copy.

12 (2) The request for qualifications shall be prepared for  
13 Illiana and must contain, without limitation, the following  
14 information: (i) the name of the Department; (ii) a preliminary  
15 schedule for the completion of the contract; (iii) the proposed  
16 budget for Illiana, the source of funds, and the currently  
17 available funds at the time the request for proposal is  
18 submitted; (iv) prequalification criteria for design-build  
19 entities wishing to submit proposals (the Department shall  
20 include, at a minimum, its normal prequalification, licensing,  
21 registration, and other requirements, but nothing contained  
22 herein precludes the use of additional prequalification  
23 criteria by the Department); (v) material requirements of the  
24 contract, including but not limited to, the proposed terms and  
25 conditions, required performance and payment bonds, insurance,  
26 and the entity's plan to comply with the utilization goals

1 established by the corporate authorities of the Department for  
2 minority and women business enterprises and to comply with  
3 Section 2-105 of the Illinois Human Rights Act; (vi) the  
4 performance criteria; (vii) the evaluation criteria for each  
5 phase of the solicitation; and (viii) the number of entities  
6 that will be considered for the request for proposals phase.

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

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 Department shall include in the request for  
19 proposals a minimum of 30 days to develop the proposals after  
20 the selection of entities from the evaluation of the statements  
21 of qualifications is completed.

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

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

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

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

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

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

25 (2) The Department shall include in the request for  
26 qualifications the evaluating factors to be used in the request

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

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

1 2-105 of the Illinois Human Rights Act. The Department may  
2 include any additional relevant criteria in the request for  
3 qualifications phase that it deems necessary for a proper  
4 qualification review.

5 Upon completion of the qualifications evaluation, the  
6 Department shall create a shortlist of the most highly  
7 qualified private entities.

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

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

24 The Department shall include the following criteria in  
25 every request for proposals phase technical evaluation of  
26 private entities: (i) compliance with objectives of the

1 project; (ii) compliance of proposed services to the request  
2 for proposal requirements; (iii) quality of products or  
3 materials proposed; (iv) quality of design parameters; (v)  
4 design concepts; (vi) innovation in meeting the scope and  
5 performance criteria; and (vii) constructability of the  
6 proposed project. The Department may include any additional  
7 relevant technical evaluation factors it deems necessary for  
8 proper selection.

9 The Department shall include the following criteria in  
10 every request for proposals phase cost evaluation: the total  
11 project cost and the time of completion. The Department may  
12 include any additional relevant technical evaluation factors  
13 it deems necessary for proper selection. The guaranteed maximum  
14 project cost criteria weighing factor shall not exceed 30%.

15 The Department shall directly employ or retain a licensed  
16 design professional to evaluate the technical and cost  
17 submissions to determine if the technical submissions are in  
18 accordance with generally accepted industry standards.

19 (e) Statements of qualifications and proposals must be  
20 properly identified and sealed. Statements of qualifications  
21 and proposals may not be reviewed until after the deadline for  
22 submission has passed as set forth in the request for  
23 qualifications or the request for proposals. All private  
24 entities submitting statements of qualifications or proposals  
25 shall be disclosed after the deadline for submission, and all  
26 private entities who are selected for request for proposals

1 phase evaluation shall also be disclosed at the time of that  
2 determination.

3 Phase II design-build proposals shall include a bid bond in  
4 the form and security as designated in the request for  
5 proposals. Proposals shall also contain a separate sealed  
6 envelope with the cost information within the overall proposal  
7 submission. Proposals shall include a list of all design  
8 professionals and other entities to which any work identified  
9 in Section 30-30 of the Illinois Procurement Code as a  
10 subdivision of construction work may be subcontracted during  
11 the performance of the contract.

12 Statements of qualifications and proposals must meet all  
13 material requirements of the request for qualifications or  
14 request for proposals, or else they may be rejected as  
15 non-responsive. The Department shall have the right to reject  
16 any and all statements of qualifications and proposals.

17 The drawings and specifications of any unsuccessful  
18 statement of qualifications or proposal shall remain the  
19 property of the private entity.

20 The Department shall review the statements of  
21 qualifications and the proposals for compliance with the  
22 performance criteria and evaluation factors.

23 Statements of qualifications and proposals may be  
24 withdrawn prior to the due date and time for submissions for  
25 any cause. After evaluation begins by the Department, clear and  
26 convincing evidence of error is required for withdrawal.



1 Section 30. Interim agreements.

2 (a) Prior to or in connection with the negotiation of the  
3 public-private agreement, the Department may enter into an  
4 interim agreement with the approved proposer. Neither the  
5 Department nor the approved proposer is authorized to commence  
6 or perform any construction-related activities pursuant to the  
7 interim agreement. Such interim agreement may:

8 (1) permit the approved proposer to commence  
9 activities relating to the proposed Illiana project as the  
10 Department and the approved proposer shall agree to and for  
11 which the approved proposer may be compensated, including,  
12 but not limited to, project planning, advance right-of-way  
13 acquisition, design and engineering, environmental  
14 analysis and mitigation, survey, conducting transportation  
15 and revenue studies, and ascertaining the availability of  
16 financing;

17 (2) establish the process and timing of the exclusive  
18 negotiation of the public-private agreement with an  
19 approved proposer;

20 (3) require that in the event the Department determines  
21 not to proceed with the project after the approved proposer  
22 and the Department have executed an interim agreement, and  
23 thereby terminates the interim agreement or declines to  
24 proceed with negotiation of the public-private agreement  
25 with an approved proposer, the Department shall pay to the

1 approved proposer certain costs incurred by the approved  
2 proposer;

3 (4) establish the ownership in the State of Illinois of  
4 the concepts and designs in the event of termination of the  
5 interim agreement;

6 (5) establish procurement procedures for (i) the  
7 selection of professional design firms using procedures  
8 outlined in the Architectural, Engineering, and Land  
9 Surveying Qualifications Based Selection Act for the  
10 selection of design professional firms and (ii) the  
11 selection of construction companies using procedures  
12 outlined in the Illinois Procurement Code; and

13 (6) contain any other provisions related to any aspect  
14 of Illiana that the parties may deem appropriate.

15 (b) The Department may enter into an interim agreement with  
16 multiple approved proposers if the Department determines in  
17 writing that it is in the public interest to do so.

18 (c) The approved proposer shall select firms that are  
19 prequalified by the Department pursuant to Section 20 of the  
20 Architectural, Engineering, and Land Surveying Qualifications  
21 Based Selection Act to provide architectural, engineering, and  
22 land surveying services to undertake activities related to  
23 Illiana.

24 Section 35. Public-private agreement.

25 (a) Unless undertaking actions otherwise permitted in an

1 interim agreement entered into under Section 30 of this Act,  
2 before developing, financing, or operating Illiana, the  
3 approved proposer shall enter into the public-private  
4 agreement with the Department. Subject to the requirements of  
5 this Act, the public-private agreement may provide that the  
6 approved proposer, acting on behalf of the Department, is  
7 partially or entirely responsible for any combination of  
8 developing, financing, or operating Illiana under terms set  
9 forth in the public-private agreement.

10 (b) The public-private agreement may, as determined  
11 appropriate by the Department for Illiana, provide for some or  
12 all of the following:

13 (1) Construction, financing, and operation of Illiana  
14 under terms set forth in the public-private agreement, in  
15 any form as deemed appropriate by the Department,  
16 including, but not limited to, a long-term concession and  
17 lease, a design-bid-build agreement, a design-build  
18 agreement, a design-build-maintain agreement, a  
19 design-build-operate-maintain agreement and a  
20 design-build-finance-operate-maintain agreement.

21 (2) Delivery of performance and payment bonds or other  
22 performance security determined suitable by the  
23 Department, including letters of credit, United States  
24 bonds and notes, parent guaranties, and cash collateral, in  
25 connection with the development, financing, or operation  
26 of Illiana, in the forms and amounts set forth in the

1 public-private agreement or otherwise determined as  
2 satisfactory by the Department and payment bond  
3 beneficiaries who have a direct contractual relationship  
4 with the contractor or a subcontractor of the contractor to  
5 supply labor or material. The payment or performance bond  
6 or alternative form of performance security is not required  
7 for the portion of the public-private agreement that  
8 includes only design, planning, or financing services, the  
9 performance of preliminary studies, or the acquisition of  
10 real property.

11 (3) Review of plans for any development or operation,  
12 or both, by the Department.

13 (4) Inspection of any construction of or improvements  
14 to Illiana by the Department or another entity designated  
15 by the Department or under the public-private agreement to  
16 ensure that the construction or improvements conform to the  
17 standards set forth in the public-private agreement or are  
18 otherwise acceptable to the Department.

19 (5) Maintenance of:

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

23 (B) self-insurance; each in form and amount as set  
24 forth in the public-private agreement or otherwise  
25 satisfactory to the Department as reasonably  
26 sufficient to insure coverage of tort liability to the

1 public and employees and to enable the continued  
2 operation of Illiana.

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

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

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 Department on a  
16 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 the 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 Department;

26 (C) an operations fee, payable on a lump-sum basis,

1 time and material basis, periodic basis, or another  
2 basis deemed appropriate by the Department;

3 (D) some or all of the revenues, if any, arising  
4 out of operation of Illiana;

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

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

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

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

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

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

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

23 (B) sharing of revenues, if any, from the operation  
24 of Illiana;

25 (C) sharing of project savings from the  
26 construction of Illiana;

1           (D) payment for any services, materials,  
2           equipment, personnel, or other items provided by the  
3           Department to the contractor under the public-private  
4           agreement; or

5           (E) other compensation set forth in the  
6           public-private agreement or otherwise deemed  
7           appropriate by the Department.

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

13          (12) Reversion of Illiana to the Department at the  
14          termination or expiration of the public-private agreement.

15          (13) Rights and remedies of the Department in the event  
16          that the contractor defaults or otherwise fails to comply  
17          with the terms of the public-private agreement.

18          (14) Establishing procurement procedures for (i) the  
19          selection of professional design firms using procedures  
20          outlined in the Architectural, Engineering, and Land  
21          Surveying Qualifications Based Selection Act for the  
22          selection of design professional firms and (ii) the  
23          selection of construction companies using procedures  
24          outlined in the Illinois Procurement Code.

25          (15) Other terms, conditions, and provisions that the  
26          Department believes are in the public interest.

1           (c) The Department may fix and revise the amounts of user  
2 fees that a contractor may charge and collect for the use of  
3 any part of Illiana in accordance with the public-private  
4 agreement. In fixing the amounts, the Department may establish  
5 maximum amounts for the user fees and may provide that the  
6 maximums and any increases or decreases of those maximums shall  
7 be based upon the indices, methodologies, or other factors the  
8 Department considers appropriate.

9           (d) the public-private agreement may:

10           (1) authorize the imposition of tolls in any manner  
11 determined appropriate by the Department for Illiana;

12           (2) authorize the contractor to adjust the user fees  
13 for the use of Illiana, so long as the amounts charged and  
14 collected by the contractor do not exceed the maximum  
15 amounts established by the Department under this Act;

16           (3) provide that any adjustment by the contractor  
17 permitted under paragraph (2) of this subsection (d) may be  
18 based on the indices, methodologies, or other factors  
19 described in the public-private agreement or approved by  
20 the Department;

21           (4) authorize the contractor to charge and collect user  
22 fees through methods, including, but not limited to,  
23 automatic vehicle identification systems, electronic toll  
24 collection systems, and, to the extent permitted by law,  
25 global positioning system-based, photo-based, or  
26 video-based toll collection enforcement, provided that to



1 the maximum extent feasible the contractor will (i) utilize  
2 open road tolling methods that allow payment of tolls at  
3 highway speeds and (ii) comply with United States  
4 Department of Transportation requirements and best  
5 practices with respect to tolling methods; and

6 (5) authorize the collection of user fees by a third  
7 party.

8 (e) In the public-private agreement, the Department may  
9 agree to make grants or loans for the development or operation,  
10 or both, of Illiana from time to time from amounts received  
11 from the federal government or any agency or instrumentality of  
12 the federal government or from any State or local agency.

13 (f) Upon the termination or expiration of the  
14 public-private agreement, including a termination for default,  
15 the Department shall have the right to take over Illiana and to  
16 succeed to all of the right, title, and interest in Illiana,  
17 subject to any liens on revenues previously granted by the  
18 contractor to any person providing financing for Illiana.

19 (g) If the Department elects to take over Illiana as  
20 provided in subsection (f) of this Section, the Department may  
21 do the following:

22 (1) develop, finance, or operate the project,  
23 including through the public-private agreement entered  
24 into in accordance with this Act; or

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

1 (h) If the Department elects to take over Illiana as  
2 provided in subsection (f) of this Section, the Department may  
3 use the revenues, if any, for any lawful purpose, including to:

4 (1) make payments to individuals or entities in  
5 connection with any financing of Illiana;

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

9 (3) pay development costs of Illiana;

10 (4) pay current operation costs of Illiana; and

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

13 (i) All real property acquired as a part of Illiana shall  
14 be held in the name of the State of Illinois upon termination  
15 of Illiana.

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

23 (k) The Department may enter into the public-private  
24 agreement with multiple approved proposers if the Department  
25 determines in writing that it is in the public interest to do  
26 so.

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

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

14           Section 40. Development and operations standards for  
15 Illiana.

16           (a) The plans and specifications, if any, for Illiana  
17 developed under this Act must comply with:

18               (1) the Department's standards for other projects of a  
19 similar nature or as otherwise provided in the  
20 public-private agreement;

21               (2) the Professional Engineering Practice Act of 1989,  
22 the Structural Engineering Practice Act of 1989, the  
23 Illinois Architecture Practice Act of 1989, and the  
24 Illinois Professional Land Surveyor Act of 1989; and

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

1           (b) The Illiana Expressway constructed or operated under  
2 this Act is considered to be part of the State highway system  
3 for purposes of identification, maintenance standards, and  
4 enforcement of traffic laws under the jurisdiction of the  
5 Department.

6           (c) The Department may enter into agreements with the  
7 contractor for maintenance or other services under this Act.

8           (d) Any electronic toll collection system used on the toll  
9 highway as part of Illiana must be compatible with the  
10 electronic toll collection system used by the Illinois State  
11 Toll Highway Authority.

12           Section 45. Financial arrangements.

13           (a) The Department may do any combination of applying for,  
14 executing, or endorsing applications submitted by private  
15 entities to obtain federal, State, or local credit assistance  
16 developing, financing, or operating Illiana under this Act,  
17 including loans, lines of credit, and guarantees.

18           (b) The Department may take any action to obtain federal,  
19 State, or local assistance for Illiana that serves the public  
20 purpose of this Act and may enter into any contracts required  
21 to receive the federal assistance. The Department may determine  
22 that it serves the public purpose of this Act for all or any  
23 portion of the costs of Illiana to be paid, directly or  
24 indirectly, from the proceeds of a grant or loan, line of  
25 credit, or loan guarantee made by a local, State, or federal

1 government or any agency or instrumentality of a local, State,  
2 or federal government. Such assistance may include, but not be  
3 limited to, federal credit assistance pursuant to the  
4 Transportation Infrastructure Finance and Innovation Act  
5 (TIFIA).

6 (c) The Department may agree to make grants or loans for  
7 the development, financing, or operation of Illiana from time  
8 to time, from amounts received from the federal, State, or  
9 local government or any agency or instrumentality of the  
10 federal, State, or local government.

11 (d) Any financing of Illiana may be in the amounts and upon  
12 the terms and conditions that are determined by the parties to  
13 the public-private agreement.

14 (e) For the purpose of financing Illiana, the contractor  
15 and the Department may do the following:

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

18 (2) enter into grant agreements;

19 (3) access any other funds available to the Department;  
20 and

21 (4) accept grants from the Department or other public  
22 or private agency or entity.

23 (f) For the purpose of financing Illiana, public funds may  
24 be used and mixed and aggregated with funds provided by or on  
25 behalf of the contractor or other private entities.

26 (g) For the purpose of financing Illiana, the Department is

1 authorized to do any combination of applying for, executing, or  
2 endorsing applications for an allocation of tax-exempt bond  
3 financing authorization provided by Section 142(m) of the  
4 United States Internal Revenue Code, as well as financing  
5 available under any other federal law or program.

6 (h) Any bonds, debt, or other securities or other financing  
7 issued for the purposes of this Act shall not be deemed to  
8 constitute a debt of the State or any political subdivision of  
9 the State or a pledge of the faith and credit of the State or  
10 any political subdivision of the State.

11 Section 50. Acquisition of property.

12 (a) The Department may exercise any power of condemnation  
13 or eminent domain, including quick-take powers, that it has  
14 under law, including, in the case of the Department, all powers  
15 for acquisition of property rights granted it in the Illinois  
16 Highway Code, for the purpose of acquiring any lands or estates  
17 or interests in land for Illiana to the extent provided in the  
18 public-private agreement or otherwise to the extent that the  
19 Department finds that the action serves the public purpose of  
20 this Act and deems it appropriate in the exercise of its powers  
21 under this Act.

22 (b) The Department and an approved proposer may enter into  
23 the leases, licenses, easements, and other grants of property  
24 interests that the Department determines necessary to carry out  
25 this Act.

1 Section 55. Labor.

2 (a) The public-private agreement related to Illiana shall  
3 require the contractor to enter into a project labor agreement.

4 (b) The public-private agreement related to Illiana shall  
5 require all construction contractors to comply with the  
6 requirements of Section 30-22 of the Illinois Procurement Code  
7 as they apply to responsible bidders and to present  
8 satisfactory evidence of that compliance to the Department,  
9 unless Illiana is federally funded and the application of those  
10 requirements would jeopardize the receipt or use of federal  
11 funds in support of Illiana.

12 (c) Each contractor and sub-contractor participating in a  
13 public-private agreement related to Illiana shall, with  
14 respect to employees assigned work related to Illiana and who  
15 are not otherwise members of an existing bargaining unit  
16 cognizable under the National Labor Relations Act of 1935, and  
17 where not otherwise prohibited by applicable law, the  
18 contractor shall negotiate in good faith with any union that  
19 seeks to represent its employees for a labor neutrality and  
20 card check procedure agreement. The agreement shall apply only  
21 to employees actually assigned work related to Illiana and  
22 shall have no applicability to employees not so assigned. The  
23 agreement shall contain provisions accomplishing the following  
24 objectives: resolution by a third party neutral of  
25 disagreements regarding bargaining unit scope, inclusions, and

1 exclusions; determination of the existence of majority support  
2 for a bargaining agent by means of a card check procedure; and  
3 prohibition of coercion or intimidation of employees by either  
4 the employer or the union.

5 Section 60. Law enforcement.

6 (a) All law enforcement officers of the State and of each  
7 affected local jurisdiction have the same powers and  
8 jurisdiction within the limits of Illiana as they have in their  
9 respective areas of jurisdiction.

10 (b) Law enforcement officers shall have access to Illiana  
11 at any time for the purpose of exercising the law enforcement  
12 officers' powers and jurisdiction.

13 (c) The traffic and motor vehicle laws of the State of  
14 Illinois or, if applicable, any local jurisdiction shall be the  
15 same as those applying to conduct on similar projects in the  
16 State of Illinois or the local jurisdiction.

17 (d) Punishment for infractions and offenses shall be as  
18 prescribed by law for conduct occurring on similar projects in  
19 the State of Illinois or the local jurisdiction.

20 Section 65. Term of agreement; reversion of property to the  
21 Department.

22 (a) The term of the public-private agreement, including all  
23 extensions, may not exceed 99 years.

24 (b) The Department shall terminate the contractor's



1 authority and duties under the public-private agreement on the  
2 date set forth in the public-private agreement.

3 (c) Upon termination of the public-private agreement, the  
4 authority and duties of the contractor under this Act cease,  
5 except for those duties and obligations that extend beyond the  
6 termination, as set forth in the public-private agreement, and  
7 all interests in Illiana shall revert to the Department.

8 Section 70. Additional powers of the Department with  
9 respect to Illiana.

10 (a) The Department may exercise any powers provided under  
11 this Act in participation or cooperation with any governmental  
12 entity and enter into any contracts to facilitate that  
13 participation or cooperation without compliance with any other  
14 statute. The Department shall cooperate with other  
15 governmental entities under this Act.

16 (b) The Department may make and enter into all contracts  
17 and agreements necessary or incidental to the performance of  
18 the Department's duties and the execution of the Department's  
19 powers under this Act. Except as otherwise required by law,  
20 these contracts or agreements are not subject to any approvals  
21 other than the approval of the Department, Governor, or federal  
22 agencies.

23 (c) The Department may pay the costs incurred under the  
24 public-private agreement entered into under this Act from any  
25 funds available to the Department for the purpose of Illiana

1 under this Act or any other statute.

2 (d) The Department or other State agency may not take any  
3 action that would impair the public-private agreement entered  
4 into under this Act, except as provided by law.

5 (e) The Department may enter into an agreement between and  
6 among the contractor, the Department, and the Department of  
7 State Police concerning the provision of law enforcement  
8 assistance with respect to Illiana under this Act.

9 (f) The Department is authorized to enter into arrangements  
10 with the Department of State Police related to costs incurred  
11 in providing law enforcement assistance under this Act.

12 Section 75. Prohibited local action. A unit of local  
13 government may not take any action that would have the effect  
14 of impairing the public-private agreement under this Act.

15 Section 80. Powers liberally construed. The powers  
16 conferred by this Act shall be liberally construed in order to  
17 accomplish their purposes and shall be in addition and  
18 supplemental to the powers conferred by any other law. If any  
19 other law or rule is inconsistent with this Act, this Act is  
20 controlling as to any public-private agreement entered into  
21 under this Act.

22 Section 85. Full and complete authority. This Act contains  
23 full and complete authority for agreements and leases with

1 private entities to carry out the activities described in this  
2 Act. Except as otherwise required by law, no procedure,  
3 proceedings, publications, notices, consents, approvals,  
4 orders, or acts by the Department or any other State or local  
5 agency or official are required to enter into an agreement or  
6 lease.

7 Section 90. Severability. The provisions of this Act are  
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 905. The Department of Transportation Law of the  
10 Civil Administrative Code of Illinois is amended by adding  
11 Section 2705-220 as follows:

12 (20 ILCS 2705/2705-220 new)

13 Sec. 2705-220. Public-private partnerships for  
14 transportation. The Department may exercise all powers granted  
15 to it under the Illiana Expressway Public-Private Partnerships  
16 for Transportation Act.

17 Section 910. The Illinois Finance Authority Act is amended  
18 by adding Section 825-105 as follows:

19 (20 ILCS 3501/825-105 new)

20 Sec. 825-105. Illiana financing. For the purpose of  
21 financing Illiana under the Illiana Expressway Public-Private

1 Partnerships for Transportation Act, the Authority is  
2 authorized to apply for an allocation of tax-exempt bond  
3 financing authorization provided by Section 142(m) of the  
4 United States Internal Revenue Code, as well as financing  
5 available under any other federal law or program.

6 Section 915. The Illinois Procurement Code is amended by  
7 changing Section 1-10 as follows:

8 (30 ILCS 500/1-10)

9 Sec. 1-10. Application.

10 (a) This Code applies only to procurements for which  
11 contractors were first solicited on or after July 1, 1998. This  
12 Code shall not be construed to affect or impair any contract,  
13 or any provision of a contract, entered into based on a  
14 solicitation prior to the implementation date of this Code as  
15 described in Article 99, including but not limited to any  
16 covenant entered into with respect to any revenue bonds or  
17 similar instruments. All procurements for which contracts are  
18 solicited between the effective date of Articles 50 and 99 and  
19 July 1, 1998 shall be substantially in accordance with this  
20 Code and its intent.

21 (b) This Code shall apply regardless of the source of the  
22 funds with which the contracts are paid, including federal  
23 assistance moneys. This Code shall not apply to:

24 (1) Contracts between the State and its political

1 subdivisions or other governments, or between State  
2 governmental bodies except as specifically provided in  
3 this Code.

4 (2) Grants, except for the filing requirements of  
5 Section 20-80.

6 (3) Purchase of care.

7 (4) Hiring of an individual as employee and not as an  
8 independent contractor, whether pursuant to an employment  
9 code or policy or by contract directly with that  
10 individual.

11 (5) Collective bargaining contracts.

12 (6) Purchase of real estate, except that notice of this  
13 type of contract with a value of more than \$25,000 must be  
14 published in the Procurement Bulletin within 7 days after  
15 the deed is recorded in the county of jurisdiction. The  
16 notice shall identify the real estate purchased, the names  
17 of all parties to the contract, the value of the contract,  
18 and the effective date of the contract.

19 (7) Contracts necessary to prepare for anticipated  
20 litigation, enforcement actions, or investigations,  
21 provided that the chief legal counsel to the Governor shall  
22 give his or her prior approval when the procuring agency is  
23 one subject to the jurisdiction of the Governor, and  
24 provided that the chief legal counsel of any other  
25 procuring entity subject to this Code shall give his or her  
26 prior approval when the procuring entity is not one subject

1 to the jurisdiction of the Governor.

2 (8) Contracts for services to Northern Illinois  
3 University by a person, acting as an independent  
4 contractor, who is qualified by education, experience, and  
5 technical ability and is selected by negotiation for the  
6 purpose of providing non-credit educational service  
7 activities or products by means of specialized programs  
8 offered by the university.

9 (9) Procurement expenditures by the Illinois  
10 Conservation Foundation when only private funds are used.

11 (10) Except for Section 20-160 and Article 50 of this  
12 Code, and as expressly set forth in the Illiana Expressway  
13 Public-Private Partnerships for Transportation Act, the  
14 provisions of this Code do not apply to the procurement  
15 process provided for under the Illiana Expressway  
16 Public-Private Partnerships for Transportation Act.

17 (c) This Code does not apply to the electric power  
18 procurement process provided for under Section 1-75 of the  
19 Illinois Power Agency Act and Section 16-111.5 of the Public  
20 Utilities Act.

21 (d) Except for Section 20-160 and Article 50 of this Code,  
22 and as expressly required by Section 9.1 of the Illinois  
23 Lottery Law, the provisions of this Code do not apply to the  
24 procurement process provided for under Section 9.1 of the  
25 Illinois Lottery Law.

26 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;

1 95-876, eff. 8-21-08; 96-840, eff. 12-23-09.)

2 Section 920. The Public Construction Bond Act is amended by  
3 adding Section 1.5 as follows:

4 (30 ILCS 550/1.5 new)

5 Sec. 1.5. Public-private agreements. This Act applies to  
6 any public-private agreement entered into under the Illiana  
7 Expressway Public-Private Partnerships for Transportation Act.

8 Section 925. The Employment of Illinois Workers on Public  
9 Works Act is amended by adding Section 2.5 as follows:

10 (30 ILCS 570/2.5 new)

11 Sec. 2.5. Public-private agreements. This Act applies to  
12 any public-private agreement entered into under the Illiana  
13 Expressway Public-Private Partnerships for Transportation Act.

14 Section 930. The Business Enterprise for Minorities,  
15 Females, and Persons with Disabilities Act is amended by adding  
16 Section 2.5 as follows:

17 (30 ILCS 575/2.5 new)

18 Sec. 2.5. Public-private agreements. This Act applies to  
19 any public-private agreement entered into under the Illiana  
20 Expressway Public-Private Partnerships for Transportation Act.

1 Section 935. The Retailers' Occupation Tax Act is amended  
2 by adding Section 1q as follows:

3 (35 ILCS 120/1q new)

4 Sec. 1q. Building materials exemption; Illiana  
5 public-private partnership.

6 (a) Each retailer that makes a qualified sale of building  
7 materials to be incorporated into "Illiana" as defined in the  
8 Illiana Expressway Public-Private Partnerships for  
9 Transportation Act, by remodeling, rehabilitating, or new  
10 construction, may deduct receipts from those sales when  
11 calculating the tax imposed by this Act.

12 (b) As used in this Section, "qualified sale" means a sale  
13 of building materials that will be incorporated into Illiana  
14 for which a Certificate of Eligibility for Sales Tax Exemption  
15 has been issued by the Illinois Department of Transportation,  
16 which has authority over the project.

17 (c) To document the exemption allowed under this Section,  
18 the retailer must obtain from the purchaser a copy of the  
19 Certificate of Eligibility for Sales Tax Exemption issued by  
20 the Illinois Department of Transportation, which has  
21 jurisdiction over the project into which the building materials  
22 will be incorporated is located. The Certificate of Eligibility  
23 for Sales Tax Exemption must contain all of the following:

24 (1) statement that the project identified in the



1 Certificate meets all the requirements of the Illinois  
2 Department of Transportation;

3 (2) the location or address of the project; and

4 (3) the signature of the Secretary of the Illinois  
5 Department of Transportation, which has authority over  
6 Illiana or the Secretary's delegate.

7 (d) In addition to meeting the requirements of subsection  
8 (c) of this Act, the retailer must obtain a certificate from  
9 the purchaser that contains all of the following:

10 (1) a statement that the building materials are being  
11 purchased for incorporation into Illiana in accordance  
12 with the Illiana Expressway Public-Private Partnerships  
13 for Transportation Act;

14 (2) the location or address of the project into which  
15 the building materials will be incorporated;

16 (3) the name of the project;

17 (4) a description of the building materials being  
18 purchased; and

19 (5) the purchaser's signature and date of purchase.

20 (e) This Section is exempt from Section 2-70 of this Act.

21 Section 940. The Property Tax Code is amended by changing  
22 Section 15-55 as follows:

23 (35 ILCS 200/15-55)

24 Sec. 15-55. State property.

1           (a) All property belonging to the State of Illinois is  
2 exempt. However, the State agency holding title shall file the  
3 certificate of ownership and use required by Section 15-10,  
4 together with a copy of any written lease or agreement, in  
5 effect on March 30 of the assessment year, concerning parcels  
6 of 1 acre or more, or an explanation of the terms of any oral  
7 agreement under which the property is leased, subleased or  
8 rented.

9           The leased property shall be assessed to the lessee and the  
10 taxes thereon extended and billed to the lessee, and collected  
11 in the same manner as for property which is not exempt. The  
12 lessee shall be liable for the taxes and no lien shall attach  
13 to the property of the State.

14           For the purposes of this Section, the word "leases"  
15 includes licenses, franchises, operating agreements and other  
16 arrangements under which private individuals, associations or  
17 corporations are granted the right to use property of the  
18 Illinois State Toll Highway Authority and includes all property  
19 of the Authority used by others without regard to the size of  
20 the leased parcel.

21           (b) However, all property of every kind belonging to the  
22 State of Illinois, which is or may hereafter be leased to the  
23 Illinois Prairie Path Corporation, shall be exempt from all  
24 assessments, taxation or collection, despite the making of any  
25 such lease, if it is used for:

26           (1) conservation, nature trail or any other

1 charitable, scientific, educational or recreational  
2 purposes with public benefit, including the preserving and  
3 aiding in the preservation of natural areas, objects,  
4 flora, fauna or biotic communities;

5 (2) the establishment of footpaths, trails and other  
6 protected areas;

7 (3) the conservation of the proper use of natural  
8 resources or the promotion of the study of plant and animal  
9 communities and of other phases of ecology, natural history  
10 and conservation;

11 (4) the promotion of education in the fields of nature,  
12 preservation and conservation; or

13 (5) similar public recreational activities conducted  
14 by the Illinois Prairie Path Corporation.

15 No lien shall attach to the property of the State. No tax  
16 liability shall become the obligation of or be enforceable  
17 against Illinois Prairie Path Corporation.

18 (c) If the State sells the James R. Thompson Center or the  
19 Elgin Mental Health Center and surrounding land located at 750  
20 S. State Street, Elgin, Illinois, as provided in subdivision  
21 (a)(2) of Section 7.4 of the State Property Control Act, to  
22 another entity whose property is not exempt and immediately  
23 thereafter enters into a leaseback or other agreement that  
24 directly or indirectly gives the State a right to use, control,  
25 and possess the property, that portion of the property leased  
26 and occupied exclusively by the State shall remain exempt under

1 this Section. For the property to remain exempt under this  
2 subsection (c), the State must retain an option to purchase the  
3 property at a future date or, within the limitations period for  
4 reverters, the property must revert back to the State.

5 If the property has been conveyed as described in this  
6 subsection (c), the property is no longer exempt pursuant to  
7 this Section as of the date when:

8 (1) the right of the State to use, control, and possess  
9 the property has been terminated; or

10 (2) the State no longer has an option to purchase or  
11 otherwise acquire the property and there is no provision  
12 for a reverter of the property to the State within the  
13 limitations period for reverters.

14 Pursuant to Sections 15-15 and 15-20 of this Code, the  
15 State shall notify the chief county assessment officer of any  
16 transaction under this subsection (c). The chief county  
17 assessment officer shall determine initial and continuing  
18 compliance with the requirements of this Section for tax  
19 exemption. Failure to notify the chief county assessment  
20 officer of a transaction under this subsection (c) or to  
21 otherwise comply with the requirements of Sections 15-15 and  
22 15-20 of this Code shall, in the discretion of the chief county  
23 assessment officer, constitute cause to terminate the  
24 exemption, notwithstanding any other provision of this Code.

25 (c-1) If the Illinois State Toll Highway Authority sells  
26 the Illinois State Toll Highway Authority headquarters

1 building and surrounding land, located at 2700 Ogden Avenue,  
2 Downers Grove, Illinois as provided in subdivision (a)(2) of  
3 Section 7.5 of the State Property Control Act, to another  
4 entity whose property is not exempt and immediately thereafter  
5 enters into a leaseback or other agreement that directly or  
6 indirectly gives the State or the Illinois State Toll Highway  
7 Authority a right to use, control, and possess the property,  
8 that portion of the property leased and occupied exclusively by  
9 the State or the Authority shall remain exempt under this  
10 Section. For the property to remain exempt under this  
11 subsection (c), the Authority must retain an option to purchase  
12 the property at a future date or, within the limitations period  
13 for reverters, the property must revert back to the Authority.

14 If the property has been conveyed as described in this  
15 subsection (c), the property is no longer exempt pursuant to  
16 this Section as of the date when:

17 (1) the right of the State or the Authority to use,  
18 control, and possess the property has been terminated; or

19 (2) the Authority no longer has an option to purchase  
20 or otherwise acquire the property and there is no provision  
21 for a reverter of the property to the Authority within the  
22 limitations period for reverters.

23 Pursuant to Sections 15-15 and 15-20 of this Code, the  
24 Authority shall notify the chief county assessment officer of  
25 any transaction under this subsection (c). The chief county  
26 assessment officer shall determine initial and continuing

1 compliance with the requirements of this Section for tax  
2 exemption. Failure to notify the chief county assessment  
3 officer of a transaction under this subsection (c) or to  
4 otherwise comply with the requirements of Sections 15-15 and  
5 15-20 of this Code shall, in the discretion of the chief county  
6 assessment officer, constitute cause to terminate the  
7 exemption, notwithstanding any other provision of this Code.

8 (d) The fair market rent of each parcel of real property in  
9 Will County owned by the State of Illinois for the purpose of  
10 developing an airport by the Department of Transportation shall  
11 include the assessed value of leasehold tax. The lessee of each  
12 parcel of real property in Will County owned by the State of  
13 Illinois for the purpose of developing an airport by the  
14 Department of Transportation shall not be liable for the taxes  
15 thereon. In order for the State to compensate taxing districts  
16 for the leasehold tax under this paragraph the Will County  
17 Supervisor of Assessments shall certify, in writing, to the  
18 Department of Transportation, the amount of leasehold taxes  
19 extended for the 2002 property tax year for each such exempt  
20 parcel. The Department of Transportation shall pay to the Will  
21 County Treasurer, from the Tax Recovery Fund, on or before July  
22 1 of each year, the amount of leasehold taxes for each such  
23 exempt parcel as certified by the Will County Supervisor of  
24 Assessments. The tax compensation shall terminate on December  
25 31, 2020. It is the duty of the Department of Transportation to  
26 file with the Office of the Will County Supervisor of

1 Assessments an affidavit stating the termination date for  
2 rental of each such parcel due to airport construction. The  
3 affidavit shall include the property identification number for  
4 each such parcel. In no instance shall tax compensation for  
5 property owned by the State be deemed delinquent or bear  
6 interest. In no instance shall a lien attach to the property of  
7 the State. In no instance shall the State be required to pay  
8 leasehold tax compensation in excess of the Tax Recovery Fund's  
9 balance.

10 (e) Public Act 81-1026 applies to all leases or agreements  
11 entered into or renewed on or after September 24, 1979.

12 (f) Notwithstanding anything to the contrary in this  
13 Section, all property owned by the State that is defined as  
14 part of Illiana under the Illiana Expressway Public-Private  
15 Partnerships for Transportation Act and that is used for  
16 transportation purposes and that is leased for those purposes  
17 to another entity whose property is not exempt shall remain  
18 exempt, and any leasehold interest in the property shall not be  
19 subject to taxation under Section 9-195 of this Act.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-192, eff. 8-10-09.)

21 Section 945. The Prevailing Wage Act is amended by changing  
22 Section 2 as follows:

23 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

24 Sec. 2. This Act applies to the wages of laborers,

1 mechanics and other workers employed in any public works, as  
2 hereinafter defined, by any public body and to anyone under  
3 contracts for public works. This includes any maintenance,  
4 repair, assembly, or disassembly work performed on equipment  
5 whether owned, leased, or rented.

6 As used in this Act, unless the context indicates  
7 otherwise:

8 "Public works" means all fixed works constructed or  
9 demolished by any public body, or paid for wholly or in part  
10 out of public funds. "Public works" as defined herein includes  
11 all projects financed in whole or in part with bonds, grants,  
12 loans, or other funds made available by or through the State or  
13 any of its political subdivisions, including but not limited  
14 to: bonds issued under the Industrial Project Revenue Bond Act  
15 (Article 11, Division 74 of the Illinois Municipal Code), the  
16 Industrial Building Revenue Bond Act, the Illinois Finance  
17 Authority Act, the Illinois Sports Facilities Authority Act, or  
18 the Build Illinois Bond Act; loans or other funds made  
19 available pursuant to the Build Illinois Act; or funds from the  
20 Fund for Illinois' Future under Section 6z-47 of the State  
21 Finance Act, funds for school construction under Section 5 of  
22 the General Obligation Bond Act, funds authorized under Section  
23 3 of the School Construction Bond Act, funds for school  
24 infrastructure under Section 6z-45 of the State Finance Act,  
25 and funds for transportation purposes under Section 4 of the  
26 General Obligation Bond Act. "Public works" also includes (i)



1 all projects financed in whole or in part with funds from the  
2 Department of Commerce and Economic Opportunity under the  
3 Illinois Renewable Fuels Development Program Act for which  
4 there is no project labor agreement and (ii) all projects  
5 undertaken under the public-private agreement under the  
6 Illiana Expressway Public-Private Partnerships for  
7 Transportation Act for the Illiana Expressway. "Public works"  
8 also includes all projects at leased facility property used for  
9 airport purposes under Section 35 of the Local Government  
10 Facility Lease Act. "Public works" also includes the  
11 construction of a new wind power facility by a business  
12 designated as a High Impact Business under Section 5.5(a)(3)(E)  
13 of the Illinois Enterprise Zone Act. "Public works" does not  
14 include work done directly by any public utility company,  
15 whether or not done under public supervision or direction, or  
16 paid for wholly or in part out of public funds. "Public works"  
17 does not include projects undertaken by the owner at an  
18 owner-occupied single-family residence or at an owner-occupied  
19 unit of a multi-family residence.

20 "Construction" means all work on public works involving  
21 laborers, workers or mechanics. This includes any maintenance,  
22 repair, assembly, or disassembly work performed on equipment  
23 whether owned, leased, or rented.

24 "Locality" means the county where the physical work upon  
25 public works is performed, except (1) that if there is not  
26 available in the county a sufficient number of competent

1 skilled laborers, workers and mechanics to construct the public  
2 works efficiently and properly, "locality" includes any other  
3 county nearest the one in which the work or construction is to  
4 be performed and from which such persons may be obtained in  
5 sufficient numbers to perform the work and (2) that, with  
6 respect to contracts for highway work with the Department of  
7 Transportation of this State, "locality" may at the discretion  
8 of the Secretary of the Department of Transportation be  
9 construed to include two or more adjacent counties from which  
10 workers may be accessible for work on such construction.

11 "Public body" means the State or any officer, board or  
12 commission of the State or any political subdivision or  
13 department thereof, or any institution supported in whole or in  
14 part by public funds, and includes every county, city, town,  
15 village, township, school district, irrigation, utility,  
16 reclamation improvement or other district and every other  
17 political subdivision, district or municipality of the state  
18 whether such political subdivision, municipality or district  
19 operates under a special charter or not.

20 The terms "general prevailing rate of hourly wages",  
21 "general prevailing rate of wages" or "prevailing rate of  
22 wages" when used in this Act mean the hourly cash wages plus  
23 fringe benefits for training and apprenticeship programs  
24 approved by the U.S. Department of Labor, Bureau of  
25 Apprenticeship and Training, health and welfare, insurance,  
26 vacations and pensions paid generally, in the locality in which

1 the work is being performed, to employees engaged in work of a  
2 similar character on public works.

3 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,  
4 eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

5 Section 999. Effective date. This Act takes effect upon  
6 becoming law.".