



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 Public Private Agreements for the Illiana Expressway Act.

7 Section 5. Legislative findings.

8 (a) The State of Illinois and the State of Indiana are
9 engaged in collaborative planning efforts to build a new
10 interstate highway connecting Interstate Highway 55 in
11 Illinois to Interstate Highway 65 in Indiana to serve the
12 public at large.

13 (b) The Illiana Expressway will promote development and
14 investment in the State of Illinois and serve as a critical
15 transportation route in the region.

16 (c) Public private agreements between the State of Illinois

1 and one or more private entities to develop, finance,
2 construct, manage, or operate the Illiana Expressway have the
3 potential of maximizing value and benefit to the People of the
4 State of Illinois and the public at large.

5 (d) Public private agreements may enable the Illiana
6 Expressway to be developed, financed, constructed, managed, or
7 operated in an entrepreneurial and business-like manner.

8 (e) In the event the State of Illinois enters into one or
9 more public private agreements to develop, finance, construct,
10 manage, or operate the Illiana Expressway, the private parties
11 to the agreements should be accountable to the People of
12 Illinois through a comprehensive system of oversight,
13 regulation, auditing, and reporting.

14 (f) It is the intent of this Act to use Illinois design
15 professionals, construction companies, and workers to the
16 greatest extent permitted by law by offering them the right to
17 compete for this work.

18 Section 10. Definitions. As used in this Act:

19 "Agreement" means a public private agreement.

20 "Contractor" means a person that has been selected to enter
21 or has entered into a public private agreement with the
22 Department on behalf of the State for the development,
23 financing, construction, management, or operation of the
24 Illiana Expressway pursuant to this Act.

25 "Department" means the Illinois Department of

1 Transportation.

2 "Illiana Expressway" means the fully access-controlled
3 interstate highway connecting Interstate Highway 55 in
4 northeastern Illinois to Interstate Highway 65 in northwestern
5 Indiana, which may be operated as a toll or non-toll facility.

6 "Metropolitan planning organization" means a metropolitan
7 planning organization designated under 23 U.S.C. Section 134.

8 "Offeror" means a person that responds to a request for
9 qualifications under this Act.

10 "Person" means any individual, firm, association, joint
11 venture, partnership, estate, trust, syndicate, fiduciary,
12 corporation, or any other legal entity, group, or combination
13 thereof.

14 "Public private agreement" means an agreement or contract
15 between the Department on behalf of the State and all
16 schedules, exhibits, and attachments thereto, entered into
17 pursuant to a competitive request for qualifications process
18 governed by the Illinois Procurement Code and rules adopted
19 under that Code and this Act, for the development, financing,
20 construction, management, or operation of the Illiana
21 Expressway pursuant to this Act.

22 "Revenues" means all revenues including but not limited to
23 income; user fees; earnings; interest; lease payments;
24 allocations; moneys from the federal government, the State, and
25 units of local government, including but not limited to
26 federal, State, and local appropriations, grants, loans, lines

1 of credit, and credit guarantees; bond proceeds; equity
2 investments; service payments; or other receipts arising out of
3 or in connection with the financing, development,
4 construction, management, or operation of the Illiana
5 Expressway.

6 "State" means the State of Illinois.

7 "Secretary" means the Secretary of the Illinois Department
8 of Transportation.

9 "Unit of local government" has the meaning ascribed to that
10 term in Article VII, Section 1 of the Constitution of the State
11 of Illinois, and, for purposes of this Act, includes school
12 districts.

13 "User fees" means the tolls, rates, fees, or other charges
14 imposed by the State or the contractor for use of all or part
15 of the Illiana Expressway.

16 Section 15. Public private agreement authorized.

17 (a) Notwithstanding any provision of law to the contrary,
18 the Department on behalf of the State may, pursuant to a
19 competitive request for qualifications process governed by the
20 Illinois Procurement Code and rules adopted under that Code and
21 this Act, enter into one or more public private agreements with
22 one or more contractors to develop, finance, construct, manage,
23 or operate the Illiana Expressway on behalf of the State, and
24 further pursuant to which the contractors may receive certain
25 revenues including user fees in consideration of the payment of

1 moneys to the State for that right.

2 (b) Before taking any action in connection with the
3 development, financing, construction, maintenance, or
4 operation of the Illiana Expressway that is not authorized by
5 an interim agreement under Section 30 of this Act, a contractor
6 shall enter into a public private agreement.

7 (c) The term of a public private agreement, including all
8 extensions, shall be no more than 99 years.

9 (d) The term of a public private agreement may be extended
10 but only if the extension is specifically authorized by the
11 General Assembly by law.

12 Section 17. Procurement; prequalification. The Department
13 may establish a process for prequalification of offerors. If
14 the Department does create such a process, it shall: (i)
15 provide a public notice of the prequalification at least 30
16 days prior to the date on which applications are due; (ii) set
17 forth requirements and evaluation criteria in order to become
18 prequalified; (iii) determine which offerors that have
19 submitted prequalification applications, if any, meet the
20 requirements and evaluation criteria; and (iv) allow only those
21 offerors that have been prequalified to respond to the request
22 for qualifications.

23 Section 20. Procurement; request for qualifications
24 process.

1 (a) Notwithstanding any provision of law to the contrary,
2 the Department on behalf of the State shall select a contractor
3 through a competitive request for qualifications process
4 governed by the Illinois Procurement Code and rules adopted
5 under that Code and this Act.

6 (b) The competitive request for qualifications process
7 shall, at a minimum, solicit statements of qualification and
8 proposals from offerors.

9 (c) The competitive request for qualifications process
10 shall, at a minimum, take into account the following criteria:

11 (1) The offeror's plans for the Illiana Expressway
12 project;

13 (2) The offeror's current and past business practices;

14 (3) The offeror's poor or inadequate past performance
15 in developing, financing, constructing, managing, or
16 operating highways or other public assets;

17 (4) The offeror's ability to meet and past performance
18 in meeting or exhausting good faith efforts to meet the
19 utilization goals for business enterprises established in
20 the Business Enterprise for Minorities, Females, and
21 Persons with Disabilities Act;

22 (5) The offeror's ability to comply with and past
23 performance in complying with Section 2-105 of the Illinois
24 Human Rights Act; and

25 (6) The offeror's plans to comply with the Business
26 Enterprise for Minorities, Females, and Persons with

1 Disabilities Act and Section 2-105 of the Illinois Human
2 Rights Act.

3 (d) The Department shall retain the services of an advisor
4 or advisors with significant experience in the development,
5 financing, construction, management, or operation of public
6 assets to assist in the preparation of the request for
7 qualifications.

8 (e) The Department shall not include terms in the request
9 for qualifications that provide an advantage, whether directly
10 or indirectly, to any contractor presently providing goods,
11 services, or equipment to the Department.

12 (f) The Department shall select at least 2 offerors as
13 finalists. The Department shall submit the offerors'
14 statements of qualification and proposals to the Commission on
15 Government Forecasting and Accountability and the Procurement
16 Policy Board, which shall, within 30 days of the submission,
17 complete a review of the statements of qualification and
18 proposals and, jointly or separately, report on, at a minimum,
19 the satisfaction of the criteria contained in the request for
20 qualifications, the qualifications of the offerors, and the
21 value of the proposals to the State. The Department and shall
22 not select an offeror as the contractor for the Illiana
23 Expressway project until it has received and considered the
24 findings of the Commission on Government Forecasting and
25 Accountability and the Procurement Policy Board as set forth in
26 their respective reports.

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

7 (1) the date, time, and place of the hearing and the
8 address of the Department;

9 (2) the subject matter of the hearing;

10 (3) a description of the agreement that may be awarded;

11 and

12 (4) the recommendation that has been made to select an
13 offeror as the contractor for the Illiana Expressway
14 project.

15 At the hearing, the Department shall allow the public to be
16 heard on the subject of the hearing.

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

1 Section 25. Provisions of the public private agreement.

2 (a) The public private agreement shall include all of the
3 following:

4 (1) The term of the public private agreement that is
5 consistent with Section 15 of this Act;

6 (2) The powers, duties, responsibilities, obligations,
7 and functions of the Department and the contractor;

8 (3) Compensation or payments to the Department;

9 (4) Compensation or payments to the contractor;

10 (5) A provision specifying that the Department:

11 (A) has ready access to information regarding the
12 contractor's powers, duties, responsibilities,
13 obligations, and functions under the public private
14 agreement;

15 (B) has the right to demand and receive information
16 from the contractor concerning any aspect of the
17 contractor's powers, duties, responsibilities,
18 obligations, and functions under the public private
19 agreement; and

20 (C) has the authority to direct or countermand
21 decisions by the contractor at any time;

22 (6) A provision imposing an affirmative duty on the
23 contractor to provide the Department with any information
24 the contractor reasonably believes the Department would
25 want to know or would need to know to enable the Department

1 to exercise its powers, carry out its duties,
2 responsibilities, and obligations, and perform its
3 functions under this Act or the public private agreement or
4 as otherwise required by law;

5 (7) A provision requiring the contractor to provide the
6 Department with advance notice of any decision that bears
7 significantly on the public interest so the Department has
8 a reasonable opportunity to evaluate and countermand that
9 decision pursuant to this Section;

10 (8) A requirement that the Department monitor and
11 oversee the contractor's practices and take action that the
12 Department considers appropriate to ensure that the
13 contractor is in compliance with the terms of the public
14 private agreement;

15 (9) The authority of the Department to enter into
16 contracts with third parties pursuant to Section 50 of this
17 Act;

18 (10) A provision governing the contractor's authority
19 to negotiate and execute subcontracts with third parties;

20 (10.5) A provision stating that, in the event the
21 contractor finds it necessary, proper, or desirable to
22 enter into subcontracts with one or more design-build
23 entities, then it must follow a selection process that is,
24 to the greatest extent possible, identical to the selection
25 process contained in the Design-Build Procurement Act;

26 (11) The authority of the contractor to impose user

1 fees and the amounts of those fees, including the authority
2 of the contractor to use congestion pricing, pursuant to
3 which higher tolls rates are imposed during times or in
4 locations of increased congestion;

5 (12) A provision governing the deposit and allocation
6 of revenues including user fees;

7 (13) A provision governing rights to real and personal
8 property of the State, the Department, the contractor, and
9 other third parties;

10 (14) A provision stating that the contractor must,
11 pursuant to Section 75 of this Act, finance an independent
12 audit if the construction costs under the contract exceed
13 \$50,000,000;

14 (15) A provision regarding the implementation and
15 delivery of a comprehensive system of internal audits;

16 (16) A provision regarding the implementation and
17 delivery of reports, which must include a requirement that
18 the contractor file with the Department, at least on an
19 annual basis, financial statements containing information
20 required by generally accepted accounting principles
21 (GAAP);

22 (17) Procedural requirements for obtaining the prior
23 approval of the Department when rights that are the subject
24 of the agreement, including but not limited to development
25 rights, construction rights, property rights, and rights
26 to certain revenues, are sold, assigned, transferred, or

1 pledged as collateral to secure financing or for any other
2 reason;

3 (18) Grounds for termination of the agreement by the
4 Department or the contractor and a restatement of the
5 Department's rights under Section 35 of this Act;

6 (19) A requirement that the contractor enter into a
7 project labor agreement pursuant to Section 100 of this
8 Act;

9 (20) Timelines, deadlines, and scheduling;

10 (21) Review of plans, including development,
11 financing, construction, management, or operations plans,
12 by the Department;

13 (22) Inspections by the Department, including
14 inspections of construction work and improvements;

15 (23) 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 agreement;

18 (24) A code of ethics for the contractor's officers and
19 employees; and

20 (25) Procedures for amendment to the agreement.

21 (b) The public private agreement may include any or all of
22 the following:

23 (1) A provision regarding the extension of the
24 agreement that is consistent with Section 15 of this Act;

25 (2) Cash reserves requirements;

26 (3) A provision requiring the contractor to locate its

1 principal office within the State;

2 (4) Delivery of performance and payment bonds or other
3 performance security in a form and amount that is
4 satisfactory to the Department;

5 (5) Maintenance of public liability insurance;

6 (6) Maintenance of self-insurance;

7 (7) Provisions governing grants and loans, pursuant to
8 which the Department may agree to make grants or loans for
9 the development, financing, construction, management, or
10 operation of the Illiana Expressway project from time to
11 time from amounts received from the federal government or
12 any agency or instrumentality of the federal government or
13 from any State or local agency;

14 (8) Reimbursements to the Department for work
15 performed and goods, services, and equipment provided by
16 the Department; and

17 (9) All other terms, conditions, and provisions
18 acceptable to the Department that the Department deems
19 necessary and proper and in the public interest.

20 Section 30. Interim agreements.

21 (a) Prior to or in connection with the negotiation of the
22 public private agreement, the Department may enter into an
23 interim agreement with the contractor.

24 (b) The interim agreement may not authorize the contractor
25 to perform construction work prior to the execution of the

1 public private agreement.

2 (c) The interim agreement may include any or all of the
3 following:

4 (1) Timelines, deadlines, and scheduling;

5 (2) Compensation including the payment of costs and
6 fees in the event the Department terminates the interim
7 agreement or declines to proceed with negotiation of the
8 public private agreement;

9 (3) A provision governing the contractor's authority
10 to commence activities related to the Illiana Expressway
11 project including but not limited to project planning,
12 advance right-of-way acquisition, design and engineering,
13 environmental analysis and mitigation, surveying,
14 conducting studies including revenue and transportation
15 studies, and ascertaining the availability of financing;

16 (4) Procurement procedures;

17 (5) A provision governing rights to real and personal
18 property of the State, the Department, the contractor, and
19 other third parties;

20 (6) All other terms, conditions, and provisions
21 acceptable to the Department that the Department deems
22 necessary and proper and in the public interest.

23 (d) The Department may enter into one or more interim
24 agreements with one or more contractors if the Department
25 determines in writing that it is in the public interest to do
26 so.

1 Section 35. Termination of the Public Private Agreement.
2 The Department may terminate a public private agreement or
3 interim agreement under Section 30 of this Act if the
4 contractor or any executive employee of the contractor is found
5 guilty of any criminal offense related to the conduct of its
6 business or the regulation thereof in any jurisdiction. For
7 purposes of this Section, an "executive employee" is the
8 President, Chairman, Chief Executive Officer, or Chief
9 Financial Officer; any employee with executive decision-making
10 authority over the long-term or day-to-day affairs of the
11 contractor; or any employee whose compensation or evaluation is
12 determined in whole or in part by the award of the public
13 private agreement.

14 Section 40. Public private agreement proceeds. After the
15 payment of all transaction costs, including payments for legal,
16 accounting, financial, consultation, and other professional
17 services, all moneys received by the State as compensation for
18 the public private agreement shall be deposited into the
19 Illiana Expressway Proceeds Fund, which is hereby created as a
20 special fund in the State treasury. Monies in the Illiana
21 Expressway Proceeds Fund shall be appropriated by the General
22 Assembly and expended for the purposes and activities specified
23 by this Act.

1 Section 45. User fees. No user fees may be imposed by the
2 contractor except as set forth in the public private agreement.

3 Section 47. Selection of professional design firms.
4 Notwithstanding any provision of law to the contrary, the
5 selection of professional design firms by the Department or the
6 contractor shall comply with the Architectural, Engineering,
7 and Land Surveying Qualifications Based Selection Act.

8 Section 50. Other contracts. The Department may, pursuant
9 to the Illinois Procurement Code and rules adopted under that
10 Code, award contracts for goods, services, or equipment to
11 persons other than the contractor for goods, services, or
12 equipment not provided for in the public private agreement.

13 Section 55. Planning for the Illiana Expressway project.
14 The Illiana Expressway project shall be subject to all
15 applicable planning requirements otherwise required by law,
16 including land use planning, regional planning, transportation
17 planning, and environmental compliance requirements.

18 Section 60. Illinois Department of Transportation;
19 reporting requirements and information requests.

20 (a) The Department shall submit written monthly progress
21 reports to the Procurement Policy Board and the General
22 Assembly on the Illiana Expressway project. The report shall

1 include the status of any public private agreements or other
2 contracting and any ongoing or completed studies. The
3 Procurement Policy Board may determine the format for the
4 written monthly progress reports.

5 (b) The Department shall also respond promptly in writing
6 to all inquiries and comments of the Procurement Policy Board
7 with respect to any conduct taken by the Department to
8 implement, execute, or administer the provisions of this Act.

9 (c) Upon request, the Department shall appear and testify
10 before the Procurement Policy Board and produce information
11 requested by the Procurement Policy Board.

12 (d) At least 30 days prior to the beginning of the
13 Department's fiscal year, the Department shall prepare an
14 annual written progress report on the Illiana Expressway
15 project. The report shall include the status of any public
16 private agreements or other contracting and any ongoing or
17 completed studies. The report shall be delivered to the
18 Procurement Policy Board and each county, municipality, and
19 metropolitan planning organization whose territory includes or
20 lies within 5 miles from a proposed or existing Illiana
21 Expressway project site.

22 Section 65. Illinois Department of Transportation;
23 publication requirements.

24 (a) The Department shall publish a notice of the execution
25 of the public private agreement on its website and in a

1 newspaper of general circulation within the county or counties
2 whose territory includes or lies within 5 miles from a proposed
3 or existing Illiana Expressway project site.

4 (b) The Department shall publish the full text of the
5 public private agreement on its website.

6 Section 70. Electronic toll collection systems. Any
7 electronic toll collection system used on the Illiana
8 Expressway must be compatible with the electronic toll
9 collection system used by the Illinois State Toll Highway
10 Authority.

11 Section 75. Independent audits. If the public private
12 agreement provides for the construction of all or part of the
13 Illiana Expressway project and the estimated construction
14 costs under the agreement exceed \$50,000,000, the Department
15 must also require the contractor to finance an independent
16 audit of any and all traffic and cost estimates associated with
17 the agreement as well as a review of all public costs and
18 potential liabilities to which taxpayers could be exposed
19 (including improvements to other transportation facilities
20 that may be needed as a result of the agreement, failure by the
21 contractor to reimburse the Department for services provided,
22 and potential risk and liability in the event of default on the
23 agreement or default on other types of financing). The
24 independent audit must be conducted by an independent

1 consultant selected by the Department.

2 Section 80. Property acquisition. The Department may
3 acquire property for the Illiana Expressway project using the
4 powers granted to it in the Illinois Highway Code. The
5 Department may not exercise the power of quick take in
6 connection with the Illiana Expressway project.

7 Section 85. Rights of the Illinois Department of
8 Transportation upon expiration or termination of the
9 agreement.

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

17 (b) If the Department elects to take over the Illiana
18 Expressway project as provided in subsection (a) of this
19 Section, the Department may, without limitation, do the
20 following:

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

24 (2) impose, collect, retain, and use user fees, if any,

1 for the project.

2 (c) If the Department elects to take over the Illiana
3 Expressway project as provided in subsection (a) of this
4 Section, the Department may, without limitation, use the
5 revenues, if any, for any lawful purpose, including to:

6 (1) make payments to individuals or entities in
7 connection with any financing of the Illiana Expressway
8 project;

9 (2) permit a contractor or third party to receive some
10 or all of the revenues under the public private agreement
11 entered into under this Act;

12 (3) pay development costs of the Illiana Expressway;

13 (4) pay current operation costs of the Illiana
14 Expressway; and

15 (5) pay the contractor for any compensation or payment
16 owing upon termination.

17 (d) All real property acquired as a part of the Illiana
18 Expressway shall be held in the name of the State of Illinois
19 upon termination of the Illiana Expressway project.

20 (e) The full faith and credit of the State or any political
21 subdivision of the State or the Department is not pledged to
22 secure any financing of the contractor by the election to take
23 over the Illiana Expressway project. Assumption of development
24 or operation, or both, of the Illiana Expressway project does
25 not obligate the State or any political subdivision of the
26 State or the Department to pay any obligation of the

1 contractor.

2 Section 90. Standards for the Illiana Expressway project.

3 (a) The plans and specifications for the Illiana Expressway
4 project must comply with:

5 (1) the Department's standards for other projects of a
6 similar nature or as otherwise provided in the public
7 private agreement;

8 (2) the Professional Engineering Practice Act of 1989,
9 the Structural Engineering Practice Act of 1989, the
10 Illinois Architecture Practice Act of 1989, and the
11 Illinois Professional Land Surveyor Act of 1989; and

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

13 (b) The Illiana Expressway constructed is considered to be
14 part of the State highway system for purposes of
15 identification, maintenance standards, and enforcement of
16 traffic laws under the jurisdiction of the Department. The
17 Department shall establish performance based standards for
18 financial documents related to the Illiana Expressway.

19 Section 95. Financial arrangements.

20 (a) The Department may apply for, execute, or endorse
21 applications submitted by contractors and other third parties
22 to obtain federal, State, or local credit assistance to
23 develop, finance, maintain, or operate the Illiana Expressway
24 project.

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

14 (c) The Department may agree to make grants or loans for
15 the development, financing, construction, management, or
16 operation of the Illiana Expressway project from time to time,
17 from amounts received from the federal, State, or local
18 government or any agency or instrumentality of the federal,
19 State, or local government.

20 (d) Any financing of the Illiana Expressway project may be
21 in the amounts and subject to the terms and conditions
22 contained in the public private agreement.

23 (e) For the purpose of financing the Illiana Expressway
24 project, the contractor and the Department may do the
25 following:

26 (1) propose to use any and all revenues that may be

1 available to them;

2 (2) enter into grant agreements;

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

4 and

5 (4) accept grants from any public or private agency or
6 entity.

7 (f) For the purpose of financing the Illiana Expressway
8 project, public funds may be used and mixed and aggregated with
9 funds provided by or on behalf of the contractor or other
10 private entities.

11 (g) For the purpose of financing the Illiana Expressway
12 project, the Department is authorized to apply for, execute, or
13 endorse applications for an allocation of tax-exempt bond
14 financing authorization provided by Section 142(m) of the
15 United States Internal Revenue Code, as well as financing
16 available under any other federal law or program.

17 (h) Any bonds, debt, or other securities or other financing
18 issued for the purposes of 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 Section 100. Labor.

23 (a) The public private agreement shall require the
24 contractor to enter into a project labor agreement.

25 (b) The public private agreement shall require all

1 construction contractors to comply with the requirements of
2 Section 30-22 of the Illinois Procurement Code as they apply to
3 responsible bidders and to present satisfactory evidence of
4 that compliance to the Department, unless the Illiana
5 Expressway project is federally funded and the application of
6 those requirements would jeopardize the receipt or use of
7 federal funds in support of the Illiana Expressway project.

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

26 (d) In order to protect the wages, working conditions, and

1 job opportunities of employees employed by the contractor
2 participating in a public-private agreement related to Illiana
3 and the wages, working conditions, and job opportunities of
4 employees employed by an of the contractor's sub-contractors,
5 the contractor or any subcontractor retained to perform such
6 work shall be required to pay to employees an amount not less
7 than the economic equivalent of the standard of wages and
8 benefits enjoyed by the employees of the Illinois State Toll
9 Highway Authority performing comparable work. The contractor
10 or subcontractor shall certify to the Department the amount of
11 wages and benefits (or their equivalent) as of the time of the
12 public-private agreement, and any changes to those amounts as
13 they may occur during the term of the public-private agreement.
14 All development and maintenance related to Illiana shall be
15 considered public works for purposes of the Prevailing Wage
16 Act.

17 Section 105. Law enforcement.

18 (a) All law enforcement officers of the State and of each
19 affected local jurisdiction have the same powers and
20 jurisdiction within the boundaries of the Illiana Expressway as
21 they have in their respective areas of jurisdiction.

22 (b) Law enforcement officers shall have access to the
23 Illiana Expressway at any time for the purpose of exercising
24 the law enforcement officers' powers and jurisdiction.

25 (c) The traffic and motor vehicle laws of the State of

1 Illinois or, if applicable, any local jurisdiction shall be the
2 same as those applying to conduct on highways in the State of
3 Illinois or the local jurisdiction.

4 (d) Punishment for infractions and offenses shall be as
5 prescribed by law for conduct occurring on highways in the
6 State of Illinois or the local jurisdiction.

7 Section 110. Term of agreement; reversion of property to
8 the Department.

9 (a) The Department shall terminate the contractor's
10 authority and duties under the public private agreement on the
11 date set forth in the public private agreement.

12 (b) Upon termination of the public private agreement, the
13 authority and duties of the contractor under this Act cease,
14 except for those duties and obligations that extend beyond the
15 termination, as set forth in the public private agreement, and
16 all interests in the Illiana Expressway shall revert to the
17 Department.

18 Section 115. Additional powers of the Department with
19 respect to the Illiana Expressway.

20 (a) The Department may exercise any powers provided under
21 this Act in participation or cooperation with any governmental
22 entity and enter into any contracts to facilitate that
23 participation or cooperation. The Department shall cooperate
24 with other governmental entities under this Act.

1 (b) The Department may make and enter into all contracts
2 and agreements necessary or incidental to the performance of
3 the Department's duties and the execution of the Department's
4 powers under this Act. Except as otherwise required by law,
5 these contracts or agreements are not subject to any approvals
6 other than the approval of the Department, Governor, or federal
7 agencies.

8 (c) The Department may pay the costs incurred under the
9 public private agreement entered into under this Act from any
10 funds available to the Department for the purpose of the
11 Illiana Expressway under this Act or any other statute.

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

15 (e) The Department may enter into an agreement between and
16 among the contractor, the Department, and the Department of
17 State Police concerning the provision of law enforcement
18 assistance with respect to the Illiana Expressway under this
19 Act.

20 (f) The Department is authorized to enter into arrangements
21 with the Illinois State Police related to costs incurred in
22 providing law enforcement assistance under this Act.

23 Section 120. Prohibited local action; home rule. A unit of
24 local government, including a home rule unit, may not take any
25 action that would have the effect of impairing the public

1 private agreement under this Act. This Section is a denial and
2 limitation of home rule powers and functions under subsection
3 (h) of Section 6 of Article VII of the Illinois Constitution.

4 Section 125. Powers liberally construed. The powers
5 conferred by this Act shall be liberally construed in order to
6 accomplish their purposes and shall be in addition and
7 supplemental to the powers conferred by any other law. If any
8 other law or rule is inconsistent with this Act, this Act is
9 controlling as to any public private agreement entered into
10 under this Act.

11 Section 130. Full and complete authority. This Act contains
12 full and complete authority for agreements and leases with
13 private entities to carry out the activities described in this
14 Act. Except as otherwise required by law, no procedure,
15 proceedings, publications, notices, consents, approvals,
16 orders, or acts by the Department or any other State or local
17 agency or official are required to enter into an agreement or
18 lease.

19 Section 135. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.

21 Section 905. The Department of Transportation Law of the
22 Civil Administrative Code of Illinois is amended by adding

1 Section 2705-220 as follows:

2 (20 ILCS 2705/2705-220 new)

3 Sec. 2705-220. Public private partnerships for
4 transportation. The Department may exercise all powers granted
5 to it under the Public Private Agreements for the Illiana
6 Expressway Act.

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

9 (20 ILCS 3501/825-105 new)

10 Sec. 825-105. Illiana Expressway financing. For the
11 purpose of financing the Illiana Expressway under the Public
12 Private Agreements for the Illiana Expressway Act, the
13 Authority is authorized to apply for an allocation of
14 tax-exempt bond financing authorization provided by Section
15 142(m) of the United States Internal Revenue Code, as well as
16 financing available under any other federal law or program.

17 Section 915. The State Finance Act is amended by adding
18 Section 5.755 as follows:

19 (30 ILCS 105/5.755 new)

20 Sec. 5.755. The Illiana Expressway Proceeds Fund.

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

3 (30 ILCS 550/1.5 new)

4 Sec. 1.5. Public private agreements. This Act applies to
5 any public private agreement entered into under the Public
6 Private Agreements for the Illiana Expressway Act.

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

9 (30 ILCS 570/2.5 new)

10 Sec. 2.5. Public private agreements. This Act applies to
11 any public private agreement entered into under the Public
12 Private Agreements for the Illiana Expressway Act.

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

16 (30 ILCS 575/2.5 new)

17 Sec. 2.5. Public private agreements. This Act applies to
18 any public private agreement entered into under the Public
19 Private Agreements for the Illiana Expressway Act.

20 Section 935. The Retailers' Occupation Tax Act is amended

1 by adding Section 1q as follows:

2 (35 ILCS 120/1q new)

3 Sec. 1q. Building materials exemption; Illiana Expressway
4 public private partnership.

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

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

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

23 (1) statement that the project identified in the
24 Certificate meets all the requirements of the Illinois
25 Department of Transportation;

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

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

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

8 (1) a statement that the building materials are being
9 purchased for incorporation into the Illiana Expressway in
10 accordance with the Public Private Agreements for the
11 Illiana Expressway Act;

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

14 (3) the name of the project;

15 (4) a description of the building materials being
16 purchased; and

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

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

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

21 (35 ILCS 200/15-55)

22 Sec. 15-55. State property.

23 (a) All property belonging to the State of Illinois is
24 exempt. However, the State agency holding title shall file the

1 certificate of ownership and use required by Section 15-10,
2 together with a copy of any written lease or agreement, in
3 effect on March 30 of the assessment year, concerning parcels
4 of 1 acre or more, or an explanation of the terms of any oral
5 agreement under which the property is leased, subleased or
6 rented.

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

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

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

24 (1) conservation, nature trail or any other
25 charitable, scientific, educational or recreational
26 purposes with public benefit, including the preserving and

1 aiding in the preservation of natural areas, objects,
2 flora, fauna or biotic communities;

3 (2) the establishment of footpaths, trails and other
4 protected areas;

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

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

11 (5) similar public recreational activities conducted
12 by the Illinois Prairie Path Corporation.

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

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

1 property at a future date or, within the limitations period for
2 reverters, the property must revert back to the State.

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

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

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

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

23 (c-1) If the Illinois State Toll Highway Authority sells
24 the Illinois State Toll Highway Authority headquarters
25 building and surrounding land, located at 2700 Ogden Avenue,
26 Downers Grove, Illinois as provided in subdivision (a)(2) of

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

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

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

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

21 Pursuant to Sections 15-15 and 15-20 of this Code, the
22 Authority shall notify the chief county assessment officer of
23 any transaction under this subsection (c). The chief county
24 assessment officer shall determine initial and continuing
25 compliance with the requirements of this Section for tax
26 exemption. Failure to notify the chief county assessment

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

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

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

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

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

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

19 Section 945. The Prevailing Wage Act is amended by changing
20 Section 2 as follows:

21 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

22 Sec. 2. This Act applies to the wages of laborers,
23 mechanics and other workers employed in any public works, as
24 hereinafter defined, by any public body and to anyone under

1 contracts for public works. This includes any maintenance,
2 repair, assembly, or disassembly work performed on equipment
3 whether owned, leased, or rented.

4 As used in this Act, unless the context indicates
5 otherwise:

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

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

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

21 "Locality" means the county where the physical work upon
22 public works is performed, except (1) that if there is not
23 available in the county a sufficient number of competent
24 skilled laborers, workers and mechanics to construct the public
25 works efficiently and properly, "locality" includes any other
26 county nearest the one in which the work or construction is to

1 be performed and from which such persons may be obtained in
2 sufficient numbers to perform the work and (2) that, with
3 respect to contracts for highway work with the Department of
4 Transportation of this State, "locality" may at the discretion
5 of the Secretary of the Department of Transportation be
6 construed to include two or more adjacent counties from which
7 workers may be accessible for work on such construction.

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

17 The terms "general prevailing rate of hourly wages",
18 "general prevailing rate of wages" or "prevailing rate of
19 wages" when used in this Act mean the hourly cash wages plus
20 fringe benefits for training and apprenticeship programs
21 approved by the U.S. Department of Labor, Bureau of
22 Apprenticeship and Training, health and welfare, insurance,
23 vacations and pensions paid generally, in the locality in which
24 the work is being performed, to employees engaged in work of a
25 similar character on public works.

26 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,

1 eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

2 Section 999. Effective date. This Act takes effect upon
3 becoming law.".