



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3482

Introduced 2/10/2010, by Sen. Heather Steans

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Public-Private Partnerships for Transportation Act. Provides that the Act is intended to promote public-private partnerships for transportation by authorizing the Illinois Department of Transportation (the Department) and the Illinois State Toll Highway Authority (the Authority) to enter into public-private agreements related to the development, operation, and financing of transportation facilities and to encourage the practice of congestion pricing in connection with toll highways, pursuant to which higher toll rates are charged during times or in locations of most congestion. Grants to the Department and the Authority the necessary powers for the development, financing, and operation of transportation projects through public-private agreements with one or more private entities. Amends the Department of Transportation Law of the Civil Administrative Code of Illinois, Illinois Finance Authority Act, Illinois Procurement Code, Public Construction Bond Act, Public Works Preference Act, Employment of Illinois Workers on Public Works Act, Business Enterprise for Minorities, Females, and Persons with Disabilities Act, Retailers' Occupation Tax Act, Property Tax Code, Toll Highway Act, and Prevailing Wage Act to implement the new Act. Amends the State Finance Act to create the Public-Private Partnerships for Transportation Fund and provides that all money in the fund shall be used to supplement funding, as directed in the appropriation, for transportation projects in the State. Makes other changes. Effective immediately.

LRB096 20595 AJT 36293 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

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

4 Section 1. Short title. This Act may be cited as the  
5 Public-Private Partnerships for Transportation Act.

6 Section 5. Public policy and legislative intent.

7 (a) It is the public policy of the State of Illinois to  
8 promote the development, financing, and operation of  
9 transportation facilities that serve the needs of the public.

10 (b) Existing methods of procurement and financing of  
11 transportation facilities by transportation agencies impose  
12 limitations on the methods by which transportation facilities  
13 may be developed and operated within the State.

14 (c) Authorizing transportation agencies to enter into  
15 public-private partnerships, whereby private entities may  
16 develop, operate, and finance transportation facilities, has  
17 the potential to promote the development of transportation  
18 facilities in the State as well as investment in the State.

19 (d) It is the intent of this Act to promote public-private  
20 partnerships for transportation by authorizing transportation  
21 agencies to enter into public-private agreements related to the  
22 development, operation, and financing of transportation  
23 facilities.

1 (e) It is the intent of this Act to encourage the practice  
2 of congestion pricing in connection with toll highways,  
3 pursuant to which higher toll rates are charged during times or  
4 in locations of most congestion.

5 Section 10. Definitions.

6 As used in this Act:

7 "Approved proposal" means the proposal that is approved by  
8 the transportation agency pursuant to subsection (f) of Section  
9 20 or subsection (f) of Section 25 of this Act.

10 "Approved proposer" means the private entity whose  
11 proposal is the approved proposal.

12 "Authority" means the Illinois State Toll Highway  
13 Authority.

14 "Competing proposal" means a proposal submitted by a  
15 private entity in connection with a proposed transportation  
16 project, other than the unsolicited proposal.

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

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 "Maintain" or "maintenance" includes ordinary maintenance,

1 repair, rehabilitation, capital maintenance, maintenance  
2 replacement, and any other categories of maintenance that may  
3 be designated by the transportation agency.

4 "Operate" or "operation" means to do one or more of the  
5 following: maintain, improve, equip, modify, or otherwise  
6 operate.

7 "Private entity" means any combination of one or more  
8 individuals, corporations, general partnerships, limited  
9 liability companies, limited partnerships, joint ventures,  
10 business trusts, nonprofit entities, or other business  
11 entities that are parties to a proposal for a transportation  
12 project or an agreement related to a transportation project. A  
13 public agency may provide services to a contractor as a  
14 subcontractor or subconsultant without affecting the private  
15 status of the private entity and the ability to enter into a  
16 public-private agreement.

17 "Proposal" means all materials and documents prepared by or  
18 on behalf of a private entity relating to the proposed  
19 development, financing, or operation of a transportation  
20 facility as a transportation project.

21 "Proposer" means a private entity that has submitted a  
22 proposal or statement of qualifications for a public-private  
23 agreement in response to a request for proposals or a request  
24 for qualifications issued by a transportation agency under this  
25 Act, an unsolicited proposal, or a competing proposal.

26 "Public posting period" means the period of 120 days

1 beginning when the transportation agency has posted the  
2 unsolicited proposal publicly on its website and has posted  
3 notice of its acceptance of the unsolicited proposal publicly  
4 in a newspaper or newspapers of general circulation within  
5 Sangamon County and within the county or counties in which the  
6 transportation project is to be located.

7 "Public-private agreement" means the public-private  
8 agreement between the contractor and the transportation agency  
9 relating to one or more of the development, financing, or  
10 operation of a transportation project that is entered into  
11 under this Act.

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

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

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

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

7 "Transportation agency" means (i) the Department, (ii) the  
8 Authority, or (iii), with respect to an existing airport, an  
9 airport authority created and established under the Airport  
10 Authorities Act owning and operating the airport.

11 "Transportation facility" means any (i) new or existing  
12 road, highway, toll highway, bridge, tunnel, intermodal  
13 facility, intercity or high-speed passenger rail, or other  
14 transportation facility or infrastructure, excluding airports,  
15 under the jurisdiction of the Department or the Authority, or  
16 (ii) any existing airport owned and operated by an airport  
17 authority created and established under the Airport  
18 Authorities Act. The term "transportation facility" may refer  
19 to one or more transportation facilities that are proposed to  
20 be developed or operated as part of a single transportation  
21 project.

22 "Transportation project" or "project" means any or the  
23 combination of the development, financing, or operation with  
24 respect to all or a portion of any transportation facility  
25 under the jurisdiction of the transportation agency,  
26 undertaken pursuant to this Act.

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

5 "Unsolicited proposal" means the first proposal submitted  
6 by a private entity to the transportation agency with respect  
7 to a particular transportation project, other than a proposal  
8 submitted in response to a request for qualifications or a  
9 request for proposals.

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

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

16 (a) Each transportation agency may exercise the powers  
17 granted by this Act to do some or all of develop, finance, and  
18 operate any part of one or more transportation projects through  
19 public-private agreements with one or more private entities.  
20 All net proceeds arising out of a transportation project or  
21 public-private agreement undertaken pursuant to this Act must  
22 be deposited into the Public-Private Partnerships for  
23 Transportation Fund.

24 (b) A contractor has:

25 (1) all powers allowed by law generally to a private

1           entity having the same form of organization as the  
2           contractor; and

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

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

9           (c) Each year, at least 30 days prior to the beginning of  
10          the transportation agency's fiscal year, and at other times the  
11          transportation agency deems necessary, the transportation  
12          agency shall submit for review to the General Assembly a  
13          description of potential projects that the transportation  
14          agency is considering undertaking under this Act. Prior to the  
15          issuance of any request for qualifications or request for  
16          proposals with respect to any potential project pursuant to  
17          Section 20 of this Act, the commencement of a procurement  
18          process for that particular potential project shall be  
19          authorized by joint resolution of the General Assembly.

20          (d) Each year, at least 30 days prior to the beginning of  
21          the transportation agency's fiscal year, the transportation  
22          agency shall submit a description of potential projects that  
23          the transportation agency is considering undertaking under  
24          this Act to each county, municipality, and metropolitan  
25          planning organization, with respect to each project located  
26          within its boundaries.



1 (e) Any project undertaken under this Act shall be subject  
2 to all applicable planning requirements otherwise required by  
3 law, including land use planning, regional planning,  
4 transportation planning, and environmental compliance  
5 requirements.

6 (f) Any new transportation facility developed as a project  
7 under this Act, whether undertaken pursuant to Section 20 or  
8 Section 25 of this Act, must be consistent with the regional  
9 plan then in existence of any metropolitan planning  
10 organization in whose boundaries the project is located.

11 Section 20. Procurement process.

12 (a) A transportation agency seeking to enter into a  
13 public-private partnership with a private entity to develop or  
14 operate, or to develop and operate, a transportation facility  
15 as a transportation project, except in response to an  
16 unsolicited proposal or competing proposal, shall first issue a  
17 request for proposals from private entities for some or all of  
18 the development, financing, and operation of one or more  
19 transportation projects.

20 (b) Before issuing a request for proposals, the  
21 transportation agency may issue a request for qualifications,  
22 in which case the transportation agency shall (i) provide a  
23 public notice of the request for qualifications for such period  
24 as deemed appropriate or warranted by the transportation  
25 agency, (ii) set forth requirements and evaluation criteria in

1 the request for qualifications, (iii) determine which private  
2 entities that have submitted qualifications, if any, meet the  
3 requirements and evaluation criteria set forth in the request  
4 for qualifications, and (iv) shall issue requests for proposals  
5 only to those private entities determined to meet the  
6 requirements and evaluation criteria set forth in the request  
7 for qualifications.

8 (c) If the transportation agency has not issued a request  
9 for qualifications under this Section, the transportation  
10 agency shall provide a public notice of the request for  
11 proposals for a period deemed appropriate or warranted by the  
12 transportation agency.

13 (d) A request for proposals shall:

14 (1) indicate in general terms the scope of work, goods,  
15 and services sought to be procured;

16 (2) contain or incorporate by reference the  
17 specifications and contractual terms and conditions  
18 applicable to the procurement and the transportation  
19 project;

20 (3) specify the factors, criteria, and other  
21 information that will be used in evaluating the proposals;

22 (4) contain or incorporate by reference the other  
23 applicable contractual terms and conditions; and

24 (5) contain or incorporate by reference any other  
25 provisions, materials, or documents the transportation  
26 agency deems appropriate.

1           (e) The transportation agency shall determine and set forth  
2 in the request for proposals the criteria for the evaluation of  
3 proposals that are most appropriate for the transportation  
4 project. The transportation agency may use (i) a selection  
5 process that results in selection of the proposal offering the  
6 best value to the public, (ii) a selection process that results  
7 in selection of the proposal offering the lowest price or cost  
8 or the highest payment to, or revenue sharing with, the  
9 transportation agency, (iii) a selection process that results  
10 in the imposition of tolls for the shortest period, or (iv) any  
11 other selection process that the transportation agency  
12 determines is in the best interests of the State and the  
13 public.

14           (f) Based on its review and evaluation of the proposal or  
15 proposals received in response to the request for proposals,  
16 the transportation agency shall determine which one or more  
17 proposals, if any, best serve the public purpose of this Act  
18 and satisfy the criteria set forth in the request for  
19 proposals. Prior to approving such proposal or proposals, the  
20 transportation agency shall submit such proposal or proposals  
21 to the Commission on Government Forecasting and  
22 Accountability, which, within 20 days of submission by the  
23 transportation agency, shall complete a review of the proposal  
24 or proposals and report on the value of the proposal or  
25 proposals to the State. The transportation agency may approve  
26 the one or more proposals, if any, determined to best serve the

1 public purpose of this Act and satisfy the criteria set forth  
2 in the request for proposals, but not sooner than the  
3 transportation agency receives and considers the findings of  
4 the report of the Commission on Government Forecasting and  
5 Accountability.

6 (g) In addition to any other rights under this Act, in  
7 connection with any procurement under this Act, the following  
8 rights are reserved to each transportation agency:

9 (1) to withdraw a request for qualifications or a  
10 request for proposals at any time, and to publish a new  
11 request for qualifications or request for proposals;

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

13 (3) to not award a public-private agreement for any  
14 reason;

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

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

24 (6) to interview proposers; and

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

1           (h) If the transportation agency designates an approved  
2 proposer for the transportation project, the transportation  
3 agency shall execute the public-private agreement and publish  
4 notice of the execution of the public-private agreement on its  
5 website and in a newspaper or newspapers of general circulation  
6 within the county or counties in which the transportation  
7 project is to be located. Any action to contest the validity of  
8 a public-private agreement entered into under this Act must be  
9 brought no later than 30 days after the date of publication of  
10 the notice of execution of the public-private agreement.

11           (i) The transportation agency may also apply for, execute,  
12 or endorse applications submitted by private entities to obtain  
13 federal credit assistance for qualifying projects developed or  
14 operated pursuant to this Act.

15           Section 25. Unsolicited proposals.

16           (a) Any private entity seeking authorization under this Act  
17 to develop or operate, or to develop and operate, a  
18 transportation facility as a transportation project, except in  
19 response to a request for qualifications or a request for  
20 proposals, shall first submit an unsolicited proposal or  
21 competing proposal for the transportation project to the  
22 transportation agency, receive approval of the transportation  
23 agency, and enter into a public-private agreement with the  
24 transportation agency.

25           (b) Within 120 days of the effective date of this Act, the

1 Department shall develop guidelines that establish the process  
2 for the acceptance, review, and evaluation of unsolicited  
3 proposals by the Department and any other transportation  
4 agency, other than the Authority. Within 120 days of the  
5 effective date of this Act, the Authority shall develop  
6 guidelines that establish the process for the acceptance,  
7 review, and evaluation of unsolicited proposals by the  
8 Authority.

9 The guidelines developed by the Department and the  
10 Authority each shall establish criteria by which to determine  
11 whether or not to accept an unsolicited proposal, a specific  
12 schedule for review of unsolicited proposals by the  
13 transportation agency, a process for alteration of that  
14 schedule by the transportation agency if it deems that changes  
15 are necessary because of the scope or complexity of unsolicited  
16 proposals it receives, the process for receipt and review of  
17 competing proposals, and the type and amount of information  
18 that is necessary for adequate review of unsolicited proposals  
19 and competing proposals in each stage of review. For  
20 transportation projects that have approved or pending State and  
21 federal environmental clearances, have secured significant  
22 right of way, have previously allocated significant State or  
23 federal funding, or exhibit other circumstances that could  
24 reasonably reduce the amount of time to develop or operate the  
25 transportation facility in accordance with the purpose of this  
26 Act, such guidelines shall provide for a prioritized review and

1 selection process.

2 (c) Any unsolicited proposal or competing proposal shall  
3 include the following material and information in connection  
4 with the transportation facility to be developed or operated as  
5 part of the transportation project, unless waived by the  
6 transportation agency in its guidelines or written  
7 instructions given to the private entity:

8 (1) a topographic map (1:2,000 or other appropriate  
9 scale) indicating the location of the transportation  
10 facility;

11 (2) a description of the transportation facility,  
12 including the conceptual design of such facility and all  
13 proposed interconnections with other transportation  
14 facilities;

15 (3) the proposed date for development or operation of  
16 the transportation facility or facilities along with an  
17 estimate of the life-cycle cost of the transportation  
18 facility as proposed;

19 (4) a statement setting forth the method by which the  
20 private entity proposes to secure any property interests  
21 required for the transportation facility;

22 (5) information relating to the current transportation  
23 plans, if any, of each affected jurisdiction;

24 (6) a list of all permits and approvals required for  
25 developing or operating improvements to the transportation  
26 facility from local, State, or federal agencies and a

1 projected schedule for obtaining such permits and  
2 approvals;

3 (7) a list of public utility facilities, if any, that  
4 will be crossed by the transportation facility and a  
5 statement of the plans of the private entity to accommodate  
6 such crossings;

7 (8) a statement setting forth the private entity's  
8 general plans for developing or operating the  
9 transportation facility, including identification of any  
10 revenue, public or private, or proposed debt or equity  
11 investment or concession proposed by the private entity;

12 (9) the names and addresses of the persons who may be  
13 contacted for further information concerning the proposal;

14 (10) information on how the private entity's proposal  
15 will address the needs identified in the appropriate State,  
16 regional, or local transportation plan by improving  
17 safety, reducing congestion, increasing capacity, or  
18 enhancing economic efficiency; and

19 (11) such additional material and information as the  
20 transportation agency may reasonably request pursuant to  
21 its guidelines or other written instructions.

22 (d) The transportation agency may charge a reasonable fee  
23 to cover the costs of processing, reviewing, and evaluating an  
24 unsolicited proposal or competing proposal, including without  
25 limitation, reasonable attorneys' fees and fees for financial  
26 and other necessary advisors or consultants.



1           (e) Within 60 days of receiving an unsolicited proposal for  
2 a transportation project, but before reviewing, evaluating, or  
3 approving the unsolicited proposal, the transportation agency  
4 shall determine, based on its guidelines, whether or not to  
5 accept the unsolicited proposal for further review and shall  
6 promptly notify the proposer that submitted the unsolicited  
7 proposal of its decision to accept or to not accept the  
8 unsolicited proposal.

9           (f) If the transportation agency accepts the unsolicited  
10 proposal for further review:

11           (1) Before reviewing, evaluating, or approving any  
12 proposal, the transportation agency shall promptly post  
13 notice of its acceptance of the unsolicited proposal  
14 publicly for further review in a newspaper or newspapers of  
15 general circulation within Sangamon County and within the  
16 county or counties in which the transportation project is  
17 to be located, shall concurrently post the unsolicited  
18 proposal publicly on its website for 120 days, and shall  
19 accept competing proposals within such public posting  
20 period.

21           (2) As part of the evaluation of any proposal, the  
22 transportation agency shall provide copies of the  
23 unsolicited proposal and any competing proposals received  
24 to the Commission on Government Forecasting and  
25 Accountability, the Department (unless the transportation  
26 agency is the Department), and each county, municipality,

1 and metropolitan planning organization in whose boundaries  
2 the transportation project would be located; and shall  
3 receive and consider any comments submitted concerning the  
4 merits of each proposal.

5 (3) Within 60 days of the end of the public posting  
6 period, the transportation agency shall review and  
7 evaluate the unsolicited proposal and any competing  
8 proposals received within the public posting period. Based  
9 on its review and evaluation of the proposal or proposals  
10 received in response to the request for proposals, the  
11 transportation agency shall determine which one or more  
12 proposals, if any, best serve the public purpose of this  
13 Act and satisfy the criteria set forth in the request for  
14 proposals. The transportation agency may determine that a  
15 proposal serves such public purpose if:

16 (A) there is a public need for the transportation  
17 facility the private entity proposes to develop or  
18 operate;

19 (B) the transportation facility and the proposed  
20 interconnections with existing transportation  
21 facilities, and the private entity's plans for  
22 development or operation of the transportation  
23 facility, are, in the opinion of the transportation  
24 agency, reasonable and will address the needs  
25 identified in the appropriate State, regional, or  
26 local transportation plan by improving safety,

1           reducing congestion, increasing capacity, or enhancing  
2           economic efficiency;

3                   (C) the estimated cost of developing or operating  
4           the transportation facility is reasonable in relation  
5           to similar facilities; and

6                   (D) the private entity's plans will result in the  
7           timely development or operation of the transportation  
8           facility or its more efficient operation.

9           In evaluating any proposal, the transportation agency may  
10          rely upon internal staff reports prepared by personnel familiar  
11          with the operation of similar facilities or the advice of  
12          outside advisors or consultants having relevant experience;  
13          and shall also consider the extent to which the transportation  
14          facility is consistent with the regional plan then in existence  
15          of any metropolitan planning organization in whose boundaries  
16          the transportation facilities would be located.

17          Prior to approving the proposal or proposals determined to  
18          best serve the public purpose of this Act and satisfy the  
19          criteria set forth in the request for proposals, the  
20          transportation agency shall submit such proposal or proposals  
21          to the Commission on Government Forecasting and  
22          Accountability, which, within 20 days of submission by the  
23          transportation agency, shall complete a review of the proposal  
24          or proposals and report on the value of the proposal or  
25          proposals to the State. The transportation agency may approve  
26          the one or more proposals, if any, determined to best serve the

1 public purpose of this Act and satisfy the criteria set forth  
2 in the request for proposals, but not sooner than the  
3 transportation agency receives and considers the findings of  
4 the report of the Commission on Government Forecasting and  
5 Accountability.

6 (g) In addition to any other rights under this Act, the  
7 following rights are reserved to each transportation agency:

8 (1) to not accept a proposal for any reason;

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

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

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

16 (5) to interview proposers; and

17 (6) any other rights available to the transportation  
18 agency under applicable law and regulations.

19 (h) The transportation agency and the approved proposer  
20 shall execute the public-private agreement and publish notice  
21 of the execution of the public-private agreement on its website  
22 and in a newspaper or newspapers of general circulation within  
23 the county or counties in which the transportation project is  
24 to be located. Any action to contest the validity of a  
25 public-private agreement entered into under this Act must be  
26 brought no later than 30 days after the date of publication of

1 the notice of execution of the public-private agreement.

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

18 (j) The transportation agency may also apply for, execute,  
19 or endorse applications submitted by private entities to obtain  
20 federal credit assistance for qualifying projects developed or  
21 operated pursuant to this Act.

22 Section 30. Interim agreements.

23 (a) Prior to or in connection with the negotiation of the  
24 public-private agreement, the transportation agency may enter  
25 into an interim agreement with the approved proposer. Such

1 interim agreement may:

2 (1) permit the approved proposer to commence  
3 activities relating to a proposed project as the  
4 transportation agency and the approved proposer shall  
5 agree to and for which the approved proposer may be  
6 compensated, including, but not limited to, project  
7 planning and development, advance right-of-way  
8 acquisition, design and engineering, environmental  
9 analysis and mitigation, survey, conducting transportation  
10 and revenue studies, and ascertaining the availability of  
11 financing for the proposed facility or facilities;

12 (2) establish the process and timing of the exclusive  
13 negotiation of a public-private agreement with an approved  
14 proposer;

15 (3) require that in the event the transportation agency  
16 determines not to proceed with a project after the approved  
17 proposer and the transportation agency have executed an  
18 interim agreement, and thereby terminates the interim  
19 agreement or declines to proceed with negotiation of a  
20 public-private agreement with an approved proposer, the  
21 transportation agency shall pay to the approved proposer  
22 certain of the costs incurred by the approved proposer; and

23 (4) contain any other provisions related to any aspect  
24 of the transportation project that the parties may deem  
25 appropriate.

26 (b) Notwithstanding anything to the contrary in this Act, a

1 transportation agency may enter into an interim agreement with  
2 multiple approved proposers if the transportation agency  
3 determines in writing that it is in the public interest to do  
4 so.

5 Section 35. Public-private agreements.

6 (a) Unless undertaking actions otherwise permitted in an  
7 interim agreement entered into under Section 25 of this Act,  
8 before developing, financing, or operating the transportation  
9 project, the approved proposer shall enter into a  
10 public-private agreement with the transportation agency.  
11 Subject to the requirements of this Act, a public-private  
12 agreement may provide that the approved proposer, acting on  
13 behalf of the transportation agency, is partially or entirely  
14 responsible for any combination of developing, financing, or  
15 operating the transportation project under terms set forth in  
16 the public-private agreement.

17 (b) The public-private agreement may, as determined  
18 appropriate by the transportation agency for the particular  
19 transportation project, provide for some or all of the  
20 following:

21 (1) Construction, financing, and operation of the  
22 transportation project under terms set forth in the  
23 public-private agreement, in any form as deemed  
24 appropriate by the transportation agency, including, but  
25 not limited to, a long-term concession and lease, a

1 design-build agreement, a design-build-maintain agreement,  
2 a design-build-operate-maintain agreement and a  
3 design-build-finance-operate-maintain agreement.

4 (2) Delivery of performance and payment bonds or other  
5 performance security determined suitable by the  
6 transportation agency, including letters of credit, United  
7 States bonds and notes, parent guaranties, and cash  
8 collateral, in connection with the development, financing,  
9 or operation of the transportation project, in the forms  
10 and amounts set forth in the public-private agreement or  
11 otherwise determined as satisfactory by the transportation  
12 agency to protect the transportation agency and payment  
13 bond beneficiaries who have a direct contractual  
14 relationship with the contractor or a subcontractor of the  
15 contractor to supply labor or material. The payment or  
16 performance bond or alternative form of performance  
17 security is not required for the portion of a  
18 public-private agreement that includes only design,  
19 planning, or financing services, the performance of  
20 preliminary studies, or the acquisition of real property.

21 (3) Review of plans for any development or operation,  
22 or both, of the transportation project by the  
23 transportation agency.

24 (4) Inspection of any construction of or improvements  
25 to the transportation project by the transportation agency  
26 or another entity designated by the transportation agency



1 or under the public-private agreement to ensure that the  
2 construction or improvements conform to the standards set  
3 forth in the public-private agreement or are otherwise  
4 acceptable to the transportation agency.

5 (5) Maintenance of:

6 (A) one or more policies of public liability  
7 insurance (copies of which shall be filed with the  
8 transportation agency accompanied by proofs of  
9 coverage); or

10 (B) self-insurance; each in form and amount as set  
11 forth in the public-private agreement or otherwise  
12 satisfactory to the transportation agency as  
13 reasonably sufficient to insure coverage of tort  
14 liability to the public and employees and to enable the  
15 continued operation of the transportation project.

16 (6) Where operations are included within the  
17 contractor's obligations under the public-private  
18 agreement, monitoring of the maintenance practices of the  
19 contractor by the transportation agency or another entity  
20 designated by the transportation agency or under the  
21 public-private agreement and the taking of the actions the  
22 transportation agency finds appropriate to ensure that the  
23 transportation project is properly maintained.

24 (7) Reimbursement to be paid to the transportation  
25 agency as set forth in the public-private agreement for  
26 services provided by the transportation agency.

1           (8) Filing of appropriate financial statements and  
2 reports as set forth in the public-private agreement or as  
3 otherwise in a form acceptable to the transportation agency  
4 on a periodic basis.

5           (9) Compensation or payments to the contractor.  
6 Compensation or payments may include any or a combination  
7 of the following:

8           (A) a base fee and additional fee for project  
9 savings as the design-builder of a construction  
10 project;

11           (B) a development fee, payable on a lump sum basis,  
12 progress payment basis, time and materials basis, or  
13 another basis deemed appropriate by the transportation  
14 agency;

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

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

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

22           (F) in-kind services, materials, property,  
23 equipment, or other items;

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

25           (H) availability payments or similar arrangements  
26 whereby payments are made to the contractor pursuant to

1 the terms set forth in the public-private agreement or  
2 related agreements; or

3 (I) other compensation set forth in the  
4 public-private agreement or otherwise deemed  
5 appropriate by the transportation agency.

6 (10) Compensation or payments to the transportation  
7 agency, if any. Compensation or payments may include any or  
8 a combination of the following:

9 (A) a concession or lease payment or other fee,  
10 which may be payable upfront or on a periodic basis or  
11 on another basis deemed appropriate by the  
12 transportation agency;

13 (B) sharing of revenues, if any, from the operation  
14 of the transportation project;

15 (C) sharing of project savings from the  
16 construction of the transportation project;

17 (D) payment for any services, materials,  
18 equipment, personnel, or other items provided by the  
19 transportation agency to the contractor under the  
20 public-private agreement or in connection with the  
21 transportation project; or

22 (E) other compensation set forth in the  
23 public-private agreement or otherwise deemed  
24 appropriate by the transportation agency.

25 (11) The date and terms of termination of the  
26 contractor's authority and duties under the public-private

1 agreement and the circumstances under which the  
2 contractor's authority and duties may be terminated prior  
3 to that date.

4 (12) Reversion of the transportation project to the  
5 transportation agency at the termination or expiration of  
6 the public-private agreement.

7 (13) Rights and remedies of the transportation agency  
8 in the event that the contractor defaults or otherwise  
9 fails to comply with the terms of the public-private  
10 agreement.

11 (14) Other terms, conditions, and provisions that the  
12 transportation agency believes are in the public interest.

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

22 (d) A public-private agreement may:

23 (1) authorize the imposition of tolls in any manner  
24 determined appropriate by the transportation agency for  
25 the transportation project;

26 (2) authorize the contractor to adjust the user fees

1 for the use of the transportation project, so long as the  
2 amounts charged and collected by the contractor do not  
3 exceed the maximum amounts established by the  
4 transportation agency under this Act;

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

10 (4) authorize the contractor to charge and collect user  
11 fees through manual and non-manual methods, including, but  
12 not limited to, automatic vehicle identification systems,  
13 electronic toll collection systems, and, to the extent  
14 permitted by law, global positioning system-based,  
15 photo-based, or video-based toll collection enforcement;  
16 and

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

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

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

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

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

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

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

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

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

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

25 (3) pay development costs of the project;

26 (4) pay current operation costs of the project or

1 facilities;

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

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

7 (i) The full faith and credit of the State or any political  
8 subdivision of the State or the transportation agency is not  
9 pledged to secure any financing of the contractor by the  
10 election to take over the transportation project. Assumption of  
11 development or operation, or both, of the transportation  
12 project does not obligate the State or any political  
13 subdivision of the State or the transportation agency to pay  
14 any obligation of the contractor.

15 (j) Notwithstanding any other provision of this Act, the  
16 transportation agency may enter into a public-private  
17 agreement with multiple approved proposers if the  
18 transportation agency determines in writing that it is in the  
19 public interest to do so.

20 (k) A public-private agreement shall not include any  
21 provision under which the transportation agency agrees to  
22 restrict or to provide compensation to the private entity for  
23 the construction or operation of a competing transportation  
24 facility during the term of the public-private agreement.

25 Section 40. Development and operations standards for

1 transportation projects.

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

4 (1) the transportation agency's standards for other  
5 projects of a similar nature or as otherwise provided in  
6 the public-private agreement; and

7 (2) any other applicable State or federal standards.

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

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

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

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

21 Section 45. Financial arrangements.

22 (a) The transportation agency may do any combination of  
23 applying for, executing, or endorsing applications submitted  
24 by private entities to obtain federal, State, or local credit  
25 assistance for transportation projects developed, financed, or



1 operated under this Act, including loans, lines of credit, and  
2 guarantees.

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

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

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

25 (e) For the purpose of financing a transportation project,  
26 the contractor and the transportation agency may do the

1 following:

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

4 (2) enter into grant agreements;

5 (3) access any other funds available to the  
6 transportation agency; and

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

9 (f) For the purpose of financing a transportation project,  
10 public funds may be used and mixed and aggregated with funds  
11 provided by or on behalf of the contractor or other private  
12 entities.

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

20 (h) Any bonds, debt, or other securities or other financing  
21 issued for the purposes of this Act shall not be deemed to  
22 constitute a debt of the State or any political subdivision of  
23 the State or a pledge of the faith and credit of the State or  
24 any political subdivision of the State.

25 Section 50. Acquisition of property.

1           (a) The transportation agency may exercise any power of  
2 condemnation or eminent domain, including quick-take powers,  
3 that it has under law for the purpose of acquiring any lands or  
4 estates or interests in land for a transportation project to  
5 the extent provided in the public-private agreement or  
6 otherwise to the extent that the transportation agency finds  
7 that the action serves the public purpose of this Act and deems  
8 it appropriate in the exercise of its powers under this Act.

9           (b) The transportation agency and a contractor may enter  
10 into the leases, licenses, easements, and other grants of  
11 property interests that the transportation agency determines  
12 necessary to carry out this Act.

13           Section 55. Labor.

14           (a) A public-private agreement related to a transportation  
15 project pertaining to an existing transportation facility  
16 shall require the contractor to assume all existing collective  
17 bargaining agreement obligations related to employees of the  
18 transportation agency employed in relation to that facility.

19           (b) A public-private agreement related to a transportation  
20 project pertaining to a new transportation facility shall  
21 require the contractor to enter into a project labor agreement  
22 that must include provisions establishing the minimum hourly  
23 wage, benefits, and other compensation for each class of labor  
24 organization employee and such other terms as are negotiated  
25 between the contractor and the labor organizations.

1 Section 60. Law enforcement.

2 (a) All law enforcement officers of the State and of each  
3 affected local jurisdiction have the same powers and  
4 jurisdiction within the limits of the transportation facility  
5 as they have in their respective areas of jurisdiction.

6 (b) Law enforcement officers shall have access to the  
7 transportation facility at any time for the purpose of  
8 exercising the law enforcement officers' powers and  
9 jurisdiction.

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

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

17 Section 65. Term of agreement; reversion of property to  
18 transportation agency.

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

21 (b) The transportation agency shall terminate the  
22 contractor's authority and duties under the public-private  
23 agreement on the date set forth in the public-private  
24 agreement.

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

7           Section 70. Additional powers of transportation agencies  
8 with respect to transportation projects.

9           (a) Each transportation agency may exercise any powers  
10 provided under this Act in participation or cooperation with  
11 any governmental entity and enter into any contracts to  
12 facilitate that participation or cooperation without  
13 compliance with any other statute. Each transportation agency  
14 shall cooperate with each other and with other governmental  
15 entities in carrying out transportation projects under this  
16 Act.

17           (b) Each transportation agency may make and enter into all  
18 contracts and agreements necessary or incidental to the  
19 performance of the transportation agency's duties and the  
20 execution of the transportation agency's powers under this Act.  
21 Except as otherwise required by law, these contracts or  
22 agreements are not subject to any approvals other than the  
23 approval of the transportation agency and may be for any term  
24 of years and contain any terms that are considered reasonable  
25 by the transportation agency.

1           (c) Each transportation agency may pay the costs incurred  
2 under a public-private agreement entered into under this Act  
3 from any funds available to the transportation agency under  
4 this Act or any other statute.

5           (d) A transportation agency or other State agency may not  
6 take any action that would impair a public-private agreement  
7 entered into under this Act.

8           (e) Each transportation agency may enter into an agreement  
9 between and among the contractor, the transportation agency,  
10 and the Department of State Police concerning the provision of  
11 law enforcement assistance with respect to a transportation  
12 project that is the subject of a public-private agreement under  
13 this Act.

14           (f) Each transportation agency is authorized to enter into  
15 arrangements with the Department of State Police related to  
16 costs incurred in providing law enforcement assistance under  
17 this Act.

18           Section 75. Prohibited local action. A unit of local  
19 government may not take any action that would have the effect  
20 of impairing a public-private agreement under this Act.

21           Section 80. Powers liberally construed. The powers  
22 conferred by this Act shall be liberally construed in order to  
23 accomplish their purposes and shall be in addition and  
24 supplemental to the powers conferred by any other law. If any

1 other law or rule is inconsistent with this Act, this Act is  
2 controlling as to any public-private agreement entered into  
3 under this Act.

4 Section 85. Full and complete authority. This Act contains  
5 full and complete authority for agreements and leases with  
6 private entities to carry out the activities described in this  
7 Act. Except as otherwise required by law, no procedure,  
8 proceedings, publications, notices, consents, approvals,  
9 orders, or acts by the transportation agency or any other State  
10 or local agency or official are required to enter into an  
11 agreement or lease.

12 Section 905. The Department of Transportation Law of the  
13 Civil Administrative Code of Illinois is amended by adding  
14 Section 2705-220 as follows:

15 (20 ILCS 2705/2705-220 new)

16 Sec. 2705-220. Public-private partnerships for  
17 transportation. The Department may exercise all powers granted  
18 to it under the Public-Private Partnerships for Transportation  
19 Act.

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

1 (20 ILCS 3501/825-105 new)

2 Sec. 825-105. Transportation project financing. For the  
3 purpose of financing a transportation project undertaken under  
4 the Public-Private Partnerships for Transportation Act, the  
5 Authority is authorized to apply for an allocation of  
6 tax-exempt bond financing authorization provided by Section  
7 142(m) of the United States Internal Revenue Code, as well as  
8 financing available under any other federal law or program.

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

11 (30 ILCS 500/1-10)

12 Sec. 1-10. Application.

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

24 (b) This Code shall apply regardless of the source of the



1 funds with which the contracts are paid, including federal  
2 assistance moneys. This Code shall not apply to:

3 (1) Contracts between the State and its political  
4 subdivisions or other governments, or between State  
5 governmental bodies except as specifically provided in  
6 this Code.

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

9 (3) Purchase of care.

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

14 (5) Collective bargaining contracts.

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

22 (7) Contracts necessary to prepare for anticipated  
23 litigation, enforcement actions, or investigations,  
24 provided that the chief legal counsel to the Governor shall  
25 give his or her prior approval when the procuring agency is  
26 one subject to the jurisdiction of the Governor, and

1 provided that the chief legal counsel of any other  
2 procuring entity subject to this Code shall give his or her  
3 prior approval when the procuring entity is not one subject  
4 to the jurisdiction of the Governor.

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

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

14 (10) Public-private agreements entered into according  
15 to the procurement requirements of Section 20 of the  
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 State Finance Act is amended by adding  
3 Sections 5.755 and 6z-79 as follows:

4 (30 ILCS 105/5.755 new)

5 Sec. 5.755. The Public-Private Partnerships for  
6 Transportation Fund.

7 (30 ILCS 105/6z-79 new)

8 Sec. 6z-79. The Public-Private Partnerships for  
9 Transportation Fund. The Public-Private Partnerships for  
10 Transportation Fund is created as a special fund in the State  
11 treasury. Subject to appropriation, all money in the  
12 Public-Private Partnerships for Transportation Fund must be  
13 used by the Illinois Department of Transportation or the  
14 Illinois State Toll Highway Authority to supplement funding, as  
15 directed in the appropriation, for transportation projects in  
16 the State. Any interest earned on money in the Public-Private  
17 Partnerships for Transportation Fund must be deposited into the  
18 Public-Private Partnerships for Transportation Fund.

19 Section 925. The Public Construction Bond Act is amended by  
20 adding Section 1.5 as follows:

21 (30 ILCS 550/1.5 new)

1       Sec. 1.5. Public-private agreements. This Act applies to  
2       any public-private agreement entered into under the  
3       Public-Private Partnerships for Transportation Act.

4       Section 930. The Public Works Preference Act is amended by  
5       adding Section 4.5 as follows:

6             (30 ILCS 560/4.5 new)

7       Sec. 4.5. Public-private agreements. This Act applies to  
8       any public-private agreement entered into under the  
9       Public-Private Partnerships for Transportation Act.

10       Section 935. The Employment of Illinois Workers on Public  
11       Works Act is amended by adding Section 2.5 as follows:

12             (30 ILCS 570/2.5 new)

13       Sec. 2.5. Public-private agreements. This Act applies to  
14       any public-private agreement entered into under the  
15       Public-Private Partnerships for Transportation Act.

16       Section 940. The Business Enterprise for Minorities,  
17       Females, and Persons with Disabilities Act is amended by adding  
18       Section 2.5 as follows:

19             (30 ILCS 575/2.5 new)

20       Sec. 2.5. Public-private agreements. This Act applies to

1 any public-private agreement entered into under the  
2 Public-Private Partnerships for Transportation Act.

3 Section 945. The Retailers' Occupation Tax Act is amended  
4 by adding Section 1q as follows:

5 (35 ILCS 120/1q new)

6 Sec. 1q. Building materials exemption; public-private  
7 partnership transportation projects.

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

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

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

1 all of the following:

2 (1) statement that the project identified in the  
3 Certificate meets all the requirements of the agency having  
4 authority over the project;

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

6 (3) the signature of the director of the agency with  
7 authority over the project or the director's delegate.

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

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

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

17 (3) the name of the project;

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

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

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

22 Section 950. The Property Tax Code is amended by changing  
23 Section 15-55 and by adding Section 15-195 as follows:

24 (35 ILCS 200/15-55)

1           Sec. 15-55. State property.

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

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

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

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

1           (1) conservation, nature trail or any other  
2 charitable, scientific, educational or recreational  
3 purposes with public benefit, including the preserving and  
4 aiding in the preservation of natural areas, objects,  
5 flora, fauna or biotic communities;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (35 ILCS 200/15-195 new)

24 Sec. 15-195. Exemption for qualified airport leased  
25 property. Notwithstanding anything in this Code to the

1 contrary, all property owned by an airport authority created  
2 and established under the Airport Authorities Act shall remain  
3 exempt from taxation and any leasehold interest in that  
4 property is not subject to taxation under Section 9-195 if that  
5 property is used for transportation purposes as part of a  
6 transportation project undertaken pursuant to Public-Private  
7 Partnerships for Transportation Act and is leased to another  
8 entity whose property is not exempt.

9 Section 955. The Toll Highway Act is amended by adding  
10 Section 11.1 as follows:

11 (605 ILCS 10/11.1 new)

12 Sec. 11.1. Public-private partnerships. The Authority may  
13 exercise all powers granted to it under the Public-Private  
14 Partnerships for Transportation Act.

15 Section 965. The Prevailing Wage Act is amended by changing  
16 Section 2 as follows:

17 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

18 Sec. 2. This Act applies to the wages of laborers,  
19 mechanics and other workers employed in any public works, as  
20 hereinafter defined, by any public body and to anyone under  
21 contracts for public works. This includes any maintenance,  
22 repair, assembly, or disassembly work performed on equipment

1 whether owned, leased, or rented.

2 As used in this Act, unless the context indicates  
3 otherwise:

4 "Public works" means all fixed works constructed or  
5 demolished by any public body, or paid for wholly or in part  
6 out of public funds. "Public works" as defined herein includes  
7 all projects financed in whole or in part with bonds, grants,  
8 loans, or other funds made available by or through the State or  
9 any of its political subdivisions, including but not limited  
10 to: bonds issued under the Industrial Project Revenue Bond Act  
11 (Article 11, Division 74 of the Illinois Municipal Code), the  
12 Industrial Building Revenue Bond Act, the Illinois Finance  
13 Authority Act, the Illinois Sports Facilities Authority Act, or  
14 the Build Illinois Bond Act; loans or other funds made  
15 available pursuant to the Build Illinois Act; or funds from the  
16 Fund for Illinois' Future under Section 6z-47 of the State  
17 Finance Act, funds for school construction under Section 5 of  
18 the General Obligation Bond Act, funds authorized under Section  
19 3 of the School Construction Bond Act, funds for school  
20 infrastructure under Section 6z-45 of the State Finance Act,  
21 and funds for transportation purposes under Section 4 of the  
22 General Obligation Bond Act. "Public works" also includes all  
23 projects financed in whole or in part with funds from the  
24 Department of Commerce and Economic Opportunity under the  
25 Illinois Renewable Fuels Development Program Act for which  
26 there is no project labor agreement and (ii) all projects

1 undertaken under a public-private agreement under the  
2 Public-Private Partnerships for Transportation Act. "Public  
3 works" also includes all projects at leased facility property  
4 used for airport purposes under Section 35 of the Local  
5 Government Facility Lease Act. "Public works" also includes the  
6 construction of a new wind power facility by a business  
7 designated as a High Impact Business under Section 5.5(a)(3)(E)  
8 of the Illinois Enterprise Zone Act. "Public works" does not  
9 include work done directly by any public utility company,  
10 whether or not done under public supervision or direction, or  
11 paid for wholly or in part out of public funds. "Public works"  
12 does not include projects undertaken by the owner at an  
13 owner-occupied single-family residence or at an owner-occupied  
14 unit of a multi-family residence.

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

19 "Locality" means the county where the physical work upon  
20 public works is performed, except (1) that if there is not  
21 available in the county a sufficient number of competent  
22 skilled laborers, workers and mechanics to construct the public  
23 works efficiently and properly, "locality" includes any other  
24 county nearest the one in which the work or construction is to  
25 be performed and from which such persons may be obtained in  
26 sufficient numbers to perform the work and (2) that, with

1 respect to contracts for highway work with the Department of  
2 Transportation of this State, "locality" may at the discretion  
3 of the Secretary of the Department of Transportation be  
4 construed to include two or more adjacent counties from which  
5 workers may be accessible for work on such construction.

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

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

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

26 Section 999. Effective date. This Act takes effect upon



1 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 20 ILCS 2705/2705-220 new

5 20 ILCS 3501/825-105 new

6 30 ILCS 500/1-10

7 30 ILCS 105/5.755 new

8 30 ILCS 105/6z-79 new

9 30 ILCS 550/1.5 new

10 30 ILCS 560/4.5 new

11 30 ILCS 570/2.5 new

12 30 ILCS 575/2.5 new

13 35 ILCS 120/1q new

14 35 ILCS 200/15-55

15 35 ILCS 200/15-195 new

16 605 ILCS 10/11.1 new

17 820 ILCS 130/2 from Ch. 48, par. 39s-2