



Sen. Toi W. Hutchinson

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09800HB1022sam001

LRB098 04293 MLW 60374 a

1 AMENDMENT TO HOUSE BILL 1022

2 AMENDMENT NO. _____. Amend House Bill 1022 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by changing
5 Section 8.3 and by adding Section 6z-100 as follows:

6 (30 ILCS 105/6z-100 new)

7 Sec. 6z-100. The Illiana Expressway Public Private
8 Agreement Trust Fund.

9 (a) For purposes of this Section:

10 "Availability payment" means a payment made to the
11 contractor for performing its responsibility to design,
12 build, finance, operate, or maintain the Illiana
13 Expressway.

14 "Contractor" means the contractor as defined by the
15 Public Private Agreements for the Illiana Expressway Act.

16 "Public private agreement" means the public private

1 agreement developed under the Public Private Agreements
2 for the Illiana Expressway Act.

3 "Secretary" means the Secretary of Transportation, for
4 the Department of Transportation.

5 (b) Fund Established. The Illiana Expressway Public
6 Private Agreement Trust Fund is created outside the State
7 Treasury as a trust fund, and the State Treasurer shall be ex
8 officio custodian. It is the intent of this amendatory Act of
9 the 98th General Assembly that all items of income that may be
10 legally applied for use in making payments required under the
11 public private agreement shall first be deposited into the
12 Illiana Expressway Proceeds Fund unless provided in this
13 Section or otherwise specified by law. The income of the
14 Illiana Expressway Public Private Agreement Trust Fund shall
15 consist of the transfers and deposits detailed in subsections
16 (c) and (d) of this Section.

17 (c) Transfers.

18 (1) Upon the execution of the public private agreement,
19 the Secretary shall provide written notice to the State
20 Comptroller and State Treasurer. This notice shall include
21 the dates on which payments designated as availability
22 payments are required to be paid under the public private
23 agreement and shall also specify the maximum annual amount
24 of availability payments required to be paid under the
25 public private agreement. Beginning July 1, or as soon as
26 practicable thereafter, of the fiscal year prior to the

1 year in which the first availability payments are required
2 to be made under the public private agreement, and
3 continuing for each fiscal year thereafter until the
4 termination of the public private agreement, the State
5 Comptroller shall order transferred and the State
6 Treasurer shall transfer on the first day of each month, or
7 as soon as practicable thereafter, from the Road Fund to
8 the Illiana Expressway Public Private Agreement Trust Fund
9 an amount equal to 150% of one-twelfth of the amount
10 specified by the Secretary until the amount transferred
11 equals the availability payments certified for that fiscal
12 year. In the event that the amount on deposit in the
13 Illiana Expressway Public Private Agreement Trust Fund at
14 the end of any fiscal year is greater than the amount of
15 the availability payments certified by the Secretary as due
16 for the following fiscal year, this excess amount shall
17 reduce the amount of the required transfers from the Road
18 Fund to the Illiana Expressway Public Private Agreement
19 Trust Fund for the following fiscal year.

20 (2) In addition to the transfers specified in paragraph
21 (1) of this subsection (c), in the event that payments
22 other than availability payments are required to be paid
23 under the public private agreement, the Secretary shall
24 certify the amount of these payments to the State
25 Comptroller and State Treasurer, and the State Comptroller
26 shall order transferred and the State Treasurer shall

1 transfer from the Road Fund to the Illiana Expressway
2 Public Private Agreement Trust Fund the amount certified.

3 (3) In the event that a payment is required to be paid
4 on a date or in an amount that differs from the date or
5 amount initially provided by the Secretary under this
6 subsection (c), the Secretary shall provide written notice
7 to the State Comptroller and State Treasurer of the new
8 date or amount of payment. The State Comptroller shall
9 order transferred and the State Treasurer shall transfer
10 the amount required on the date described in this written
11 certification.

12 (d) The Illiana Expressway Public Private Agreement Trust
13 Fund shall consist of the following:

14 (1) all user fees, as defined in the Public Private
15 Agreements for the Illiana Expressway Act, shall be
16 deposited into the Illiana Expressway Proceeds Fund; as
17 soon as may be practical on or after July 1 of each fiscal
18 year, the State Comptroller shall order transferred and the
19 State Treasurer shall transfer the available balance in the
20 Illiana Expressway Proceeds Fund into the Illiana
21 Expressway Public Private Agreement Trust Fund;

22 (2) all other sources of income that may lawfully be
23 directed into the Illiana Expressway Public Private
24 Agreement Trust Fund, including without limitation
25 transfers under subsection (c) of this Section, federal
26 funds and reimbursements, grants, and gifts; and

1 (3) investment income earned on the available balances
2 in the Illiana Expressway Proceeds Fund and the Illiana
3 Expressway Public Private Agreement Trust Fund.

4 (e) The Governor shall include in the State budget for each
5 fiscal year that he or she submits to the General Assembly
6 under the State Budget Law of the Civil Administrative Code of
7 Illinois an appropriation recommendation equal to the expected
8 amount of expenditures required from the Illiana Expressway
9 Public Private Agreement Trust Fund for that fiscal year and
10 the following 3 fiscal years. This appropriation
11 recommendation shall include an approximate break-out of
12 expenditures between availability payments and other payments
13 required by the public private agreement.

14 Subject to appropriation, moneys in the Illiana Expressway
15 Public Private Agreement Trust Fund shall only be used for
16 payments under the public private agreement.

17 The deposits and transfers required by this Section are
18 intended to facilitate the authorization granted by the Public
19 Private Agreements for the Illiana Expressway Act to the
20 Department of Transportation to enter into the public private
21 agreement.

22 (f) In the event that at the end of any fiscal year the
23 amount on deposit in the Illiana Expressway Proceeds Fund is in
24 excess of the amount required to be transferred into the
25 Illiana Expressway Public Private Agreement Trust for the
26 succeeding fiscal year under subsection (c) of this Section, no

1 transfers from the Road Fund to the Illiana Expressway Public
2 Private Agreement Trust Fund shall be required for the
3 succeeding fiscal year and the excess amount shall be
4 transferred from Illiana Expressway Proceeds Fund to the Road
5 Fund.

6 (g) Upon the termination of the public private agreement
7 and satisfaction in full of all payments required under the
8 public private agreement no further transfers shall be made
9 from the Road Fund to the Illiana Expressway Public Private
10 Agreement Trust Fund. All amounts remaining on deposit in the
11 Illiana Expressway Proceeds Fund shall be transferred to the
12 Road Fund and the Illiana Expressway Public Private Agreement
13 Trust Fund shall be dissolved. Thereafter, deposits for the
14 Illiana Expressway Public Private Agreement Trust Fund shall be
15 deposited into the Road Fund. At the end of each fiscal year,
16 any amounts on deposit in the Illiana Expressway Proceeds Fund
17 shall be transferred to the Road Fund.

18 (30 ILCS 105/8.3) (from Ch. 127, par. 144.3)

19 Sec. 8.3. Money in the Road Fund shall, if and when the
20 State of Illinois incurs any bonded indebtedness for the
21 construction of permanent highways, be set aside and used for
22 the purpose of paying and discharging annually the principal
23 and interest on that bonded indebtedness then due and payable,
24 and for no other purpose. The surplus, if any, in the Road Fund
25 after the payment of principal and interest on that bonded

1 indebtedness then annually due shall be used as follows:

2 first -- for transfers to the Illiana Expressway Public
3 Private Agreement Trust Fund for the purpose of making
4 payments required by the Illiana Public Private Agreement
5 under the Public Private Agreements for the Illiana
6 Expressway Act; and

7 secondly -- to pay the cost of administration of
8 Chapters 2 through 10 of the Illinois Vehicle Code, except
9 the cost of administration of Articles I and II of Chapter
10 3 of that Code; and

11 thirdly ~~secondly~~ -- for expenses of the Department of
12 Transportation for construction, reconstruction,
13 improvement, repair, maintenance, operation, and
14 administration of highways in accordance with the
15 provisions of laws relating thereto, or for any purpose
16 related or incident to and connected therewith, including
17 the separation of grades of those highways with railroads
18 and with highways and including the payment of awards made
19 by the Illinois Workers' Compensation Commission under the
20 terms of the Workers' Compensation Act or Workers'
21 Occupational Diseases Act for injury or death of an
22 employee of the Division of Highways in the Department of
23 Transportation; or for the acquisition of land and the
24 erection of buildings for highway purposes, including the
25 acquisition of highway right-of-way or for investigations
26 to determine the reasonably anticipated future highway

1 needs; or for making of surveys, plans, specifications and
2 estimates for and in the construction and maintenance of
3 flight strips and of highways necessary to provide access
4 to military and naval reservations, to defense industries
5 and defense-industry sites, and to the sources of raw
6 materials and for replacing existing highways and highway
7 connections shut off from general public use at military
8 and naval reservations and defense-industry sites, or for
9 the purchase of right-of-way, except that the State shall
10 be reimbursed in full for any expense incurred in building
11 the flight strips; or for the operating and maintaining of
12 highway garages; or for patrolling and policing the public
13 highways and conserving the peace; or for the operating
14 expenses of the Department relating to the administration
15 of public transportation programs; or, during fiscal year
16 2012 only, for the purposes of a grant not to exceed
17 \$8,500,000 to the Regional Transportation Authority on
18 behalf of PACE for the purpose of ADA/Para-transit
19 expenses; or, during fiscal year 2013 only, for the
20 purposes of a grant not to exceed \$3,825,000 to the
21 Regional Transportation Authority on behalf of PACE for the
22 purpose of ADA/Para-transit expenses; or, during fiscal
23 year 2014 and each fiscal year thereafter ~~only~~, for the
24 purposes of a grant not to exceed \$3,825,000 to the
25 Regional Transportation Authority on behalf of PACE for the
26 purpose of ADA/Para-transit expenses; or for any of those

1 purposes or any other purpose that may be provided by law.

2 Appropriations for any of those purposes are payable from
3 the Road Fund. Appropriations may also be made from the Road
4 Fund for the administrative expenses of any State agency that
5 are related to motor vehicles or arise from the use of motor
6 vehicles.

7 Beginning with fiscal year 1980 and thereafter, no Road
8 Fund monies shall be appropriated to the following Departments
9 or agencies of State government for administration, grants, or
10 operations; but this limitation is not a restriction upon
11 appropriating for those purposes any Road Fund monies that are
12 eligible for federal reimbursement;

13 1. Department of Public Health;

14 2. Department of Transportation, only with respect to
15 subsidies for one-half fare Student Transportation and
16 Reduced Fare for Elderly, except during fiscal year 2012
17 only when no more than \$40,000,000 may be expended and
18 except during fiscal year 2013 only when no more than
19 \$17,570,300 may be expended and except during fiscal year
20 2014 and each fiscal year thereafter ~~only~~ when no more than
21 \$17,570,000 may be expended;

22 3. Department of Central Management Services, except
23 for expenditures incurred for group insurance premiums of
24 appropriate personnel;

25 4. Judicial Systems and Agencies.

26 Beginning with fiscal year 1981 and thereafter, no Road

1 Fund monies shall be appropriated to the following Departments
2 or agencies of State government for administration, grants, or
3 operations; but this limitation is not a restriction upon
4 appropriating for those purposes any Road Fund monies that are
5 eligible for federal reimbursement:

6 1. Department of State Police, except for expenditures
7 with respect to the Division of Operations;

8 2. Department of Transportation, only with respect to
9 Intercity Rail Subsidies, except during fiscal year 2012
10 only when no more than \$40,000,000 may be expended and
11 except during fiscal year 2013 only when no more than
12 \$26,000,000 may be expended and except during fiscal year
13 2014 only when no more than \$38,000,000 may be expended,
14 and except during fiscal year 2015 and each fiscal year
15 thereafter when no more than \$42,000,000 may be expended,
16 and Rail Freight Services.

17 Beginning with fiscal year 1982 and thereafter, no Road
18 Fund monies shall be appropriated to the following Departments
19 or agencies of State government for administration, grants, or
20 operations; but this limitation is not a restriction upon
21 appropriating for those purposes any Road Fund monies that are
22 eligible for federal reimbursement: Department of Central
23 Management Services, except for awards made by the Illinois
24 Workers' Compensation Commission under the terms of the
25 Workers' Compensation Act or Workers' Occupational Diseases
26 Act for injury or death of an employee of the Division of

1 Highways in the Department of Transportation.

2 Beginning with fiscal year 1984 and thereafter, no Road
3 Fund monies shall be appropriated to the following Departments
4 or agencies of State government for administration, grants, or
5 operations; but this limitation is not a restriction upon
6 appropriating for those purposes any Road Fund monies that are
7 eligible for federal reimbursement:

8 1. Department of State Police, except not more than 40%
9 of the funds appropriated for the Division of Operations;

10 2. State Officers.

11 Beginning with fiscal year 1984 and thereafter, no Road
12 Fund monies shall be appropriated to any Department or agency
13 of State government for administration, grants, or operations
14 except as provided hereafter; but this limitation is not a
15 restriction upon appropriating for those purposes any Road Fund
16 monies that are eligible for federal reimbursement. It shall
17 not be lawful to circumvent the above appropriation limitations
18 by governmental reorganization or other methods.
19 Appropriations shall be made from the Road Fund only in
20 accordance with the provisions of this Section.

21 Money in the Road Fund shall, if and when the State of
22 Illinois incurs any bonded indebtedness for the construction of
23 permanent highways, be set aside and used for the purpose of
24 paying and discharging during each fiscal year the principal
25 and interest on that bonded indebtedness as it becomes due and
26 payable as provided in the Transportation Bond Act, and for no

1 other purpose. The surplus, if any, in the Road Fund after the
2 payment of principal and interest on that bonded indebtedness
3 then annually due shall be used as follows:

4 first -- for transfers to the Illiana Expressway Public
5 Private Agreement Trust Fund for the purpose of making
6 payments required by the Illiana Public Private Agreement
7 under the Public Private Agreements for the Illiana
8 Expressway Act;

9 secondly -- to pay the cost of administration of
10 Chapters 2 through 10 of the Illinois Vehicle Code; and

11 thirdly ~~secondly~~ -- no Road Fund monies derived from
12 fees, excises, or license taxes relating to registration,
13 operation and use of vehicles on public highways or to
14 fuels used for the propulsion of those vehicles, shall be
15 appropriated or expended other than for costs of
16 administering the laws imposing those fees, excises, and
17 license taxes, statutory refunds and adjustments allowed
18 thereunder, administrative costs of the Department of
19 Transportation, including, but not limited to, the
20 operating expenses of the Department relating to the
21 administration of public transportation programs, payment
22 of debts and liabilities incurred in construction and
23 reconstruction of public highways and bridges, acquisition
24 of rights-of-way for and the cost of construction,
25 reconstruction, maintenance, repair, and operation of
26 public highways and bridges under the direction and

1 supervision of the State, political subdivision, or
2 municipality collecting those monies, or during fiscal
3 year 2012 only for the purposes of a grant not to exceed
4 \$8,500,000 to the Regional Transportation Authority on
5 behalf of PACE for the purpose of ADA/Para-transit
6 expenses, or during fiscal year 2013 only for the purposes
7 of a grant not to exceed \$3,825,000 to the Regional
8 Transportation Authority on behalf of PACE for the purpose
9 of ADA/Para-transit expenses, or during fiscal year 2014
10 and each fiscal year thereafter ~~only~~ for the purposes of a
11 grant not to exceed \$3,825,000 to the Regional
12 Transportation Authority on behalf of PACE for the purpose
13 of ADA/Para-transit expenses, and the costs for patrolling
14 and policing the public highways (by State, political
15 subdivision, or municipality collecting that money) for
16 enforcement of traffic laws. The separation of grades of
17 such highways with railroads and costs associated with
18 protection of at-grade highway and railroad crossing shall
19 also be permissible.

20 Appropriations for any of such purposes are payable from
21 the Road Fund or the Grade Crossing Protection Fund as provided
22 in Section 8 of the Motor Fuel Tax Law.

23 Except as provided in this paragraph, beginning with fiscal
24 year 1991 and thereafter, no Road Fund monies shall be
25 appropriated to the Department of State Police for the purposes
26 of this Section in excess of its total fiscal year 1990 Road

1 Fund appropriations for those purposes unless otherwise
2 provided in Section 5g of this Act. For fiscal years 2003,
3 2004, 2005, 2006, and 2007 only, no Road Fund monies shall be
4 appropriated to the Department of State Police for the purposes
5 of this Section in excess of \$97,310,000. For fiscal year 2008
6 only, no Road Fund monies shall be appropriated to the
7 Department of State Police for the purposes of this Section in
8 excess of \$106,100,000. For fiscal year 2009 only, no Road Fund
9 monies shall be appropriated to the Department of State Police
10 for the purposes of this Section in excess of \$114,700,000.
11 Beginning in fiscal year 2010, no road fund moneys shall be
12 appropriated to the Department of State Police. It shall not be
13 lawful to circumvent this limitation on appropriations by
14 governmental reorganization or other methods unless otherwise
15 provided in Section 5g of this Act.

16 In fiscal year 1994, no Road Fund monies shall be
17 appropriated to the Secretary of State for the purposes of this
18 Section in excess of the total fiscal year 1991 Road Fund
19 appropriations to the Secretary of State for those purposes,
20 plus \$9,800,000. It shall not be lawful to circumvent this
21 limitation on appropriations by governmental reorganization or
22 other method.

23 Beginning with fiscal year 1995 and thereafter, no Road
24 Fund monies shall be appropriated to the Secretary of State for
25 the purposes of this Section in excess of the total fiscal year
26 1994 Road Fund appropriations to the Secretary of State for

1 those purposes. It shall not be lawful to circumvent this
2 limitation on appropriations by governmental reorganization or
3 other methods.

4 Beginning with fiscal year 2000, total Road Fund
5 appropriations to the Secretary of State for the purposes of
6 this Section shall not exceed the amounts specified for the
7 following fiscal years:

8	Fiscal Year 2000	\$80,500,000;
9	Fiscal Year 2001	\$80,500,000;
10	Fiscal Year 2002	\$80,500,000;
11	Fiscal Year 2003	\$130,500,000;
12	Fiscal Year 2004	\$130,500,000;
13	Fiscal Year 2005	\$130,500,000;
14	Fiscal Year 2006	\$130,500,000;
15	Fiscal Year 2007	\$130,500,000;
16	Fiscal Year 2008	\$130,500,000;
17	Fiscal Year 2009	\$130,500,000.

18 For fiscal year 2010, no road fund moneys shall be
19 appropriated to the Secretary of State.

20 Beginning in fiscal year 2011, moneys in the Road Fund
21 shall be appropriated to the Secretary of State for the
22 exclusive purpose of paying refunds due to overpayment of fees
23 related to Chapter 3 of the Illinois Vehicle Code unless
24 otherwise provided for by law.

25 It shall not be lawful to circumvent this limitation on
26 appropriations by governmental reorganization or other

1 methods.

2 No new program may be initiated in fiscal year 1991 and
3 thereafter that is not consistent with the limitations imposed
4 by this Section for fiscal year 1984 and thereafter, insofar as
5 appropriation of Road Fund monies is concerned.

6 Nothing in this Section prohibits transfers from the Road
7 Fund to the State Construction Account Fund under Section 5e of
8 this Act; nor to the General Revenue Fund, as authorized by
9 this amendatory Act of the 93rd General Assembly; nor to the
10 Illiana Expressway Public Private Agreement Trust Fund, as
11 authorized by this amendatory act of the 98th General Assembly.

12 The additional amounts authorized for expenditure in this
13 Section by Public Acts 92-0600, 93-0025, 93-0839, and 94-91
14 shall be repaid to the Road Fund from the General Revenue Fund
15 in the next succeeding fiscal year that the General Revenue
16 Fund has a positive budgetary balance, as determined by
17 generally accepted accounting principles applicable to
18 government.

19 The additional amounts authorized for expenditure by the
20 Secretary of State and the Department of State Police in this
21 Section by this amendatory Act of the 94th General Assembly
22 shall be repaid to the Road Fund from the General Revenue Fund
23 in the next succeeding fiscal year that the General Revenue
24 Fund has a positive budgetary balance, as determined by
25 generally accepted accounting principles applicable to
26 government.

1 (Source: P.A. 97-72, eff. 7-1-11; 97-732, eff. 6-30-12; 98-24,
2 eff. 6-19-13.)

3 Section 10. The Public Private Agreements for the Illiana
4 Expressway Act is amended by changing Sections 20, 25, 40, and
5 47 and by adding Section 131 as follows:

6 (605 ILCS 130/20)

7 Sec. 20. Procurement; request for proposals process.

8 (a) Notwithstanding any provision of law to the contrary,
9 the Department on behalf of the State shall select a contractor
10 through a competitive request for proposals process governed by
11 the Illinois Procurement Code and rules adopted under that Code
12 and this Act.

13 (b) The competitive request for proposals process shall, at
14 a minimum, solicit statements of qualification and proposals
15 from offerors.

16 (c) The competitive request for proposals process shall, at
17 a minimum, take into account the following criteria:

18 (1) The offeror's plans for the Illiana Expressway
19 project;

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

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

24 (4) The offeror's ability to meet and past performance

1 in meeting or exhausting good faith efforts to meet the
2 utilization goals for business enterprises established in
3 the Business Enterprise for Minorities, Females, and
4 Persons with Disabilities Act;

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

8 (6) The offeror's plans to comply with the Business
9 Enterprise for Minorities, Females, and Persons with
10 Disabilities Act and Section 2-105 of the Illinois Human
11 Rights Act.

12 (d) The Department shall retain the services of an advisor
13 or advisors with significant experience in the development,
14 financing, construction, management, or operation of public
15 assets to assist in the preparation of the request for
16 proposals.

17 (e) The Department shall not include terms in the request
18 for proposals that provide an advantage, whether directly or
19 indirectly, to any contractor presently providing goods,
20 services, or equipment to the Department.

21 (f) The Department shall select at least 2 offerors as
22 finalists. The Department shall submit all ~~the~~ offerors'
23 statements of qualification and proposals to the Commission on
24 Government Forecasting and Accountability and the Procurement
25 Policy Board, which shall, within 30 days of the submission,
26 complete a review of the statements of qualification and

1 proposals and, jointly or separately, report on, at a minimum,
2 the satisfaction of the criteria contained in the request for
3 proposals, the qualifications of the offerors, and the value of
4 the proposals to the State. The Department shall not select an
5 offeror as the contractor for the Illiana Expressway project
6 until it has received and considered the findings of the
7 Commission on Government Forecasting and Accountability and
8 the Procurement Policy Board as set forth in their respective
9 reports.

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

16 (1) the date, time, and place of the hearing and the
17 address of the Department;

18 (2) the subject matter of the hearing;

19 (3) a description of the agreement that may be awarded;
20 and

21 (4) the recommendation that has been made to select an
22 offeror as the contractor for the Illiana Expressway
23 project.

24 At the hearing, the Department shall allow the public to be
25 heard on the subject of the hearing.

26 (h) After the procedures required in this Section have been

1 completed, the Department shall make a determination as to
2 whether the offeror should be designated as the contractor for
3 the Illiana Expressway project and shall submit the decision to
4 the Governor and to the Governor's Office of Management and
5 Budget. After review of the Department's determination, the
6 Governor may accept or reject the determination. If the
7 Governor accepts the determination of the Department, the
8 Governor shall designate the offeror for the Illiana Expressway
9 project.

10 (Source: P.A. 96-913, eff. 6-9-10.)

11 (605 ILCS 130/25)

12 (Text of Section before amendment by P.A. 98-595)

13 Sec. 25. Provisions of the public private agreement.

14 (a) The public private agreement shall include all of the
15 following:

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

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

20 (3) Compensation or payments to the Department, if
21 applicable;

22 (4) Compensation or payments to the contractor;

23 (5) A provision specifying that the Department:

24 (A) has ready access to information regarding the
25 contractor's powers, duties, responsibilities,

1 obligations, and functions under the public private
2 agreement;

3 (B) has the right to demand and receive information
4 from the contractor concerning any aspect of the
5 contractor's powers, duties, responsibilities,
6 obligations, and functions under the public private
7 agreement; and

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

10 (6) A provision imposing an affirmative duty on the
11 contractor to provide the Department with any information
12 the contractor reasonably believes the Department would
13 want to know or would need to know to enable the Department
14 to exercise its powers, carry out its duties,
15 responsibilities, and obligations, and perform its
16 functions under this Act or the public private agreement or
17 as otherwise required by law;

18 (7) A provision requiring the contractor to provide the
19 Department with advance notice of any decision that bears
20 significantly on the public interest so the Department has
21 a reasonable opportunity to evaluate and countermand that
22 decision pursuant to this Section;

23 (8) A requirement that the Department monitor and
24 oversee the contractor's practices and take action that the
25 Department considers appropriate to ensure that the
26 contractor is in compliance with the terms of the public

1 private agreement;

2 (9) The authority of the Department to enter into
3 contracts with third parties pursuant to Section 50 of this
4 Act;

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

7 (10.5) A provision stating that, in the event the
8 contractor finds it necessary, proper, or desirable to
9 enter into subcontracts with one or more design-build
10 entities, then it must follow a selection process that is,
11 to the greatest extent possible, identical to the selection
12 process contained in the Design-Build Procurement Act;

13 (11) The authority of the contractor to impose user
14 fees and the amounts of those fees, including the authority
15 of the contractor to use congestion pricing, pursuant to
16 which higher tolls rates are imposed during times or in
17 locations of increased congestion;

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

20 (13) A provision governing rights to real and personal
21 property of the State, the Department, the contractor, and
22 other third parties;

23 (14) A provision stating that the contractor must,
24 pursuant to Section 75 of this Act, finance an independent
25 audit if the construction costs under the contract exceed
26 \$50,000,000;

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

3 (16) A provision regarding the implementation and
4 delivery of reports, which must include a requirement that
5 the contractor file with the Department, at least on an
6 annual basis, financial statements containing information
7 required by generally accepted accounting principles
8 (GAAP);

9 (17) Procedural requirements for obtaining the prior
10 approval of the Department when rights that are the subject
11 of the agreement, including but not limited to development
12 rights, construction rights, property rights, and rights
13 to certain revenues, are sold, assigned, transferred, or
14 pledged as collateral to secure financing or for any other
15 reason;

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

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

22 (19.5) A provision stating that construction
23 contractors shall comply with the requirements of Section
24 30-22 of the Illinois Procurement Code pursuant to Section
25 100 of this Act;

26 (20) Timelines, deadlines, and scheduling;

1 (21) Review of plans, including development,
2 financing, construction, management, or operations plans,
3 by the Department;

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

6 (23) Rights and remedies of the Department in the event
7 that the contractor defaults or otherwise fails to comply
8 with the terms of the agreement;

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

11 (25) Procedures for amendment to the agreement.

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

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

16 (2) Cash reserves requirements;

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

20 (4) Maintenance of public liability insurance;

21 (5) Maintenance of self-insurance;

22 (6) Provisions governing grants and loans, pursuant to
23 which the Department may agree to make grants or loans for
24 the development, financing, construction, management, or
25 operation of the Illiana Expressway project from time to
26 time from amounts received from the federal government or

1 any agency or instrumentality of the federal government or
2 from any State or local agency;

3 (7) Reimbursements to the Department for work
4 performed and goods, services, and equipment provided by
5 the Department; and

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

9 (Source: P.A. 96-913, eff. 6-9-10; 97-808, eff. 7-13-12.)

10 (Text of Section after amendment by P.A. 98-595)

11 Sec. 25. Provisions of the public private agreement.

12 (a) The public private agreement shall include all of the
13 following:

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

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

18 (3) Compensation or payments to the Department, if
19 applicable;

20 (4) Compensation or payments to the contractor;

21 (5) A provision specifying that the Department:

22 (A) has ready access to information regarding the
23 contractor's powers, duties, responsibilities,
24 obligations, and functions under the public private
25 agreement;

1 (B) has the right to demand and receive information
2 from the contractor concerning any aspect of the
3 contractor's powers, duties, responsibilities,
4 obligations, and functions under the public private
5 agreement; and

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

8 (6) A provision imposing an affirmative duty on the
9 contractor to provide the Department with any information
10 the contractor reasonably believes the Department would
11 want to know or would need to know to enable the Department
12 to exercise its powers, carry out its duties,
13 responsibilities, and obligations, and perform its
14 functions under this Act or the public private agreement or
15 as otherwise required by law;

16 (7) A provision requiring the contractor to provide the
17 Department with advance notice of any decision that bears
18 significantly on the public interest so the Department has
19 a reasonable opportunity to evaluate and countermand that
20 decision pursuant to this Section;

21 (8) A requirement that the Department monitor and
22 oversee the contractor's practices and take action that the
23 Department considers appropriate to ensure that the
24 contractor is in compliance with the terms of the public
25 private agreement;

26 (9) The authority of the Department to enter into

1 contracts with third parties pursuant to Section 50 of this
2 Act;

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

5 (10.5) A provision stating that, in the event that the
6 contractor does not have a subcontract with a design-build
7 entity in effect at the time of execution of the
8 public-private agreement by the Department, the contractor
9 must follow a selection process that is, to the greatest
10 extent possible, identical to the selection process
11 contained in the Design-Build Procurement Act;

12 (11) The authority of the contractor and the Department
13 to impose user fees and the amounts of those fees,
14 including the authority of the contractor and the
15 Department to use congestion pricing, pursuant to which
16 higher tolls rates are imposed during times or in locations
17 of increased congestion;

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

20 (13) A provision governing rights to real and personal
21 property of the State, the Department, the contractor, and
22 other third parties;

23 (14) A provision stating that the contractor must,
24 pursuant to Section 75 of this Act, finance an independent
25 audit if the construction costs under the contract exceed
26 \$50,000,000;

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

3 (16) A provision regarding the implementation and
4 delivery of reports, which must include a requirement that
5 the contractor file with the Department, at least on an
6 annual basis, financial statements containing information
7 required by generally accepted accounting principles
8 (GAAP);

9 (17) Procedural requirements for obtaining the prior
10 approval of the Department when rights that are the subject
11 of the agreement, including but not limited to development
12 rights, construction rights, property rights, and rights
13 to certain revenues, are sold, assigned, transferred, or
14 pledged as collateral to secure financing or for any other
15 reason;

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

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

22 (19.5) A provision stating that construction
23 contractors shall comply with the requirements of Section
24 30-22 of the Illinois Procurement Code pursuant to Section
25 100 of this Act;

26 (20) Timelines, deadlines, and scheduling;

1 (21) Review of plans, including development,
2 financing, construction, management, or operations plans,
3 by the Department;

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

6 (23) Rights and remedies of the Department in the event
7 that the contractor defaults or otherwise fails to comply
8 with the terms of the agreement;

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

11 (25) Procedures for amendment to the agreement.

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

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

16 (2) Cash reserves requirements;

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

20 (4) Maintenance of public liability insurance;

21 (5) Maintenance of self-insurance;

22 (6) Provisions governing grants and loans, pursuant to
23 which the Department may agree to make grants or loans for
24 the development, financing, construction, management, or
25 operation of the Illiana Expressway project from time to
26 time from amounts received from the federal government or

1 any agency or instrumentality of the federal government or
2 from any State or local agency;

3 (7) Reimbursements to the Department for work
4 performed and goods, services, and equipment provided by
5 the Department; and

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

9 (c) The public private agreement shall contain a
10 conspicuous statement to the following effect: (i) neither the
11 State, the Department, or any other State agency, political
12 corporation, or political subdivision of the State, is
13 obligated to make payments under the public private agreement
14 except as provided by this Act and by Sections 6z-100 and 8.3
15 of the State Finance Act; and (ii) neither the faith and credit
16 of the State, the Department, or any other State agency,
17 political corporation, or political subdivision of the State is
18 pledged to any of the payments required under the public
19 private agreement.

20 (Source: P.A. 97-808, eff. 7-13-12; 98-595, eff. 6-1-14.)

21 (605 ILCS 130/40)

22 Sec. 40. Public private agreement proceeds; deposit of user
23 fees. After the payment of all transaction costs, including
24 payments for legal, accounting, financial, consultation, and
25 other professional services, all moneys received by the State

1 as compensation for the public private agreement shall be
2 deposited into the Illiana Expressway Proceeds Fund, which is
3 hereby created as a special fund in the State treasury. In
4 addition, all user fees shall be deposited into the Illiana
5 Expressway Proceeds Fund. Expenditures may be made from the
6 Fund only in the manner as appropriated by the General Assembly
7 by law.

8 (Source: P.A. 96-913, eff. 6-9-10.)

9 (605 ILCS 130/47)

10 Sec. 47. Selection of professional design firms.
11 Notwithstanding any provision of law to the contrary, the
12 selection of professional design firms by the Department ~~or the~~
13 ~~contractor~~ shall comply with the Architectural, Engineering,
14 and Land Surveying Qualifications Based Selection Act.

15 (Source: P.A. 96-913, eff. 6-9-10.)

16 (605 ILCS 130/131 new)

17 Sec. 131. Binding dispute resolution.

18 (a) The Department may include in the public private
19 agreement a provision authorizing a binding dispute resolution
20 process consistent with the Uniform Arbitration Act for any
21 claim or controversy subsequently arising out of the public
22 private agreement and the Department may agree to be bound by
23 this binding dispute resolution process.

24 (b) Any award against the Department made under the binding

1 dispute resolution process shall be paid only upon
2 appropriation by the General Assembly.

3 (c) The Court of Claims has no jurisdiction concerning any
4 claims or controversy arising under the public private
5 agreement that are the subject of the binding dispute
6 resolution process described in subsection (a) of this Section.

7 Section 95. No acceleration or delay. Where this Act makes
8 changes in a statute that is represented in this Act by text
9 that is not yet or no longer in effect (for example, a Section
10 represented by multiple versions), the use of that text does
11 not accelerate or delay the taking effect of (i) the changes
12 made by this Act or (ii) provisions derived from any other
13 Public Act.

14 Section 97. Severability. The provisions of this Act are
15 severable under Section 1.31 of the Statute on Statutes.

16 Section 999. Effective date. This Act takes effect upon
17 becoming law."