



Sen. Toi W. Hutchinson

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LRB098 04293 MLW 60396 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 as a trust fund in the
7 State treasury. It is the intent of this amendatory Act of the
8 98th General Assembly that all items of income that may be
9 legally applied for use in making payments required under the
10 public private agreement shall first be deposited into the
11 Illiana Expressway Proceeds Fund unless provided in this
12 Section or otherwise specified by law. The income of the
13 Illiana Expressway Public Private Agreement Trust Fund shall
14 consist of the transfers and deposits detailed in subsections
15 (c) and (d) of this Section.

16 (c) Transfers.

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

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

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

1 Public Private Agreement Trust Fund the amount certified.

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

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

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

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

26 (3) investment income earned on the available balances

1 in the Illiana Expressway Proceeds Fund and the Illiana
2 Expressway Public Private Agreement Trust Fund.

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

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

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

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

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

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

17 (30 ILCS 105/8.3) (from Ch. 127, par. 144.3)

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

1 first -- to pay the cost of administration of Chapters
2 2 through 10 of the Illinois Vehicle Code, except the cost
3 of administration of Articles I and II of Chapter 3 of that
4 Code; and

5 secondly -- for expenses of the Department of
6 Transportation for construction, reconstruction,
7 improvement, repair, maintenance, operation, and
8 administration of highways in accordance with the
9 provisions of laws relating thereto, or for any purpose
10 related or incident to and connected therewith, including
11 the separation of grades of those highways with railroads
12 and with highways and including the payment of awards made
13 by the Illinois Workers' Compensation Commission under the
14 terms of the Workers' Compensation Act or Workers'
15 Occupational Diseases Act for injury or death of an
16 employee of the Division of Highways in the Department of
17 Transportation; or for the purpose of making payments and
18 transfers required by the public private agreement
19 developed under the Public Private Agreements for the
20 Illiana Expressway Act; or for the acquisition of land and
21 the erection of buildings for highway purposes, including
22 the acquisition of highway right-of-way or for
23 investigations to determine the reasonably anticipated
24 future highway needs; or for making of surveys, plans,
25 specifications and estimates for and in the construction
26 and maintenance of flight strips and of highways necessary

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

25 Appropriations for any of those purposes are payable from
26 the Road Fund. Appropriations may also be made from the Road

1 Fund for the administrative expenses of any State agency that
2 are related to motor vehicles or arise from the use of motor
3 vehicles.

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

10 1. Department of Public Health;

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

18 3. Department of Central Management Services, except
19 for expenditures incurred for group insurance premiums of
20 appropriate personnel;

21 4. Judicial Systems and Agencies.

22 Beginning with fiscal year 1981 and thereafter, no Road
23 Fund monies shall be appropriated to the following Departments
24 or agencies of State government for administration, grants, or
25 operations; but this limitation is not a restriction upon
26 appropriating for those purposes any Road Fund monies that are

1 eligible for federal reimbursement:

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

4 2. Department of Transportation, only with respect to
5 Intercity Rail Subsidies, except during fiscal year 2012
6 only when no more than \$40,000,000 may be expended and
7 except during fiscal year 2013 only when no more than
8 \$26,000,000 may be expended and except during fiscal year
9 2014 only when no more than \$38,000,000 may be expended,
10 and Rail Freight Services.

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

22 Beginning with fiscal year 1984 and thereafter, no Road
23 Fund monies shall be appropriated to the following Departments
24 or agencies of State government for administration, grants, or
25 operations; but this limitation is not a restriction upon
26 appropriating for those purposes any Road Fund monies that are

1 eligible for federal reimbursement:

- 2 1. Department of State Police, except not more than 40%
3 of the funds appropriated for the Division of Operations;
4 2. State Officers.

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

15 Money in the Road Fund shall, if and when the State of
16 Illinois incurs any bonded indebtedness for the construction of
17 permanent highways, be set aside and used for the purpose of
18 paying and discharging during each fiscal year the principal
19 and interest on that bonded indebtedness as it becomes due and
20 payable as provided in the Transportation Bond Act, and for no
21 other purpose. The surplus, if any, in the Road Fund after the
22 payment of principal and interest on that bonded indebtedness
23 then annually due shall be used as follows:

- 24 first -- to pay the cost of administration of Chapters
25 2 through 10 of the Illinois Vehicle Code; and
26 secondly -- no Road Fund monies derived from fees,

1 excises, or license taxes relating to registration,
2 operation and use of vehicles on public highways or to
3 fuels used for the propulsion of those vehicles, shall be
4 appropriated or expended other than for costs of
5 administering the laws imposing those fees, excises, and
6 license taxes, statutory refunds and adjustments allowed
7 thereunder, administrative costs of the Department of
8 Transportation, including, but not limited to, the
9 operating expenses of the Department relating to the
10 administration of public transportation programs, payment
11 of debts and liabilities incurred in construction and
12 reconstruction of public highways and bridges, acquisition
13 of rights-of-way for and the cost of construction,
14 reconstruction, maintenance, repair, and operation of
15 public highways and bridges under the direction and
16 supervision of the State, political subdivision, or
17 municipality collecting those monies, or for the purpose of
18 making payments and transfers required by the public
19 private agreement developed under the Public Private
20 Agreements for the Illiana Expressway Act, or during fiscal
21 year 2012 only for the purposes of a grant not to exceed
22 \$8,500,000 to the Regional Transportation Authority on
23 behalf of PACE for the purpose of ADA/Para-transit
24 expenses, or during fiscal year 2013 only for the purposes
25 of a grant not to exceed \$3,825,000 to the Regional
26 Transportation Authority on behalf of PACE for the purpose

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

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

14 Except as provided in this paragraph, beginning with fiscal
15 year 1991 and thereafter, no Road Fund monies shall be
16 appropriated to the Department of State Police for the purposes
17 of this Section in excess of its total fiscal year 1990 Road
18 Fund appropriations for those purposes unless otherwise
19 provided in Section 5g of this Act. For fiscal years 2003,
20 2004, 2005, 2006, and 2007 only, no Road Fund monies shall be
21 appropriated to the Department of State Police for the purposes
22 of this Section in excess of \$97,310,000. For fiscal year 2008
23 only, no Road Fund monies shall be appropriated to the
24 Department of State Police for the purposes of this Section in
25 excess of \$106,100,000. For fiscal year 2009 only, no Road Fund
26 monies shall be appropriated to the Department of State Police

1 for the purposes of this Section in excess of \$114,700,000.
2 Beginning in fiscal year 2010, no road fund moneys shall be
3 appropriated to the Department of State Police. It shall not be
4 lawful to circumvent this limitation on appropriations by
5 governmental reorganization or other methods unless otherwise
6 provided in Section 5g of this Act.

7 In fiscal year 1994, no Road Fund monies shall be
8 appropriated to the Secretary of State for the purposes of this
9 Section in excess of the total fiscal year 1991 Road Fund
10 appropriations to the Secretary of State for those purposes,
11 plus \$9,800,000. It shall not be lawful to circumvent this
12 limitation on appropriations by governmental reorganization or
13 other method.

14 Beginning with fiscal year 1995 and thereafter, no Road
15 Fund monies shall be appropriated to the Secretary of State for
16 the purposes of this Section in excess of the total fiscal year
17 1994 Road Fund appropriations to the Secretary of State for
18 those purposes. It shall not be lawful to circumvent this
19 limitation on appropriations by governmental reorganization or
20 other methods.

21 Beginning with fiscal year 2000, total Road Fund
22 appropriations to the Secretary of State for the purposes of
23 this Section shall not exceed the amounts specified for the
24 following fiscal years:

25	Fiscal Year 2000	\$80,500,000;
26	Fiscal Year 2001	\$80,500,000;

1	Fiscal Year 2002	\$80,500,000;
2	Fiscal Year 2003	\$130,500,000;
3	Fiscal Year 2004	\$130,500,000;
4	Fiscal Year 2005	\$130,500,000;
5	Fiscal Year 2006	\$130,500,000;
6	Fiscal Year 2007	\$130,500,000;
7	Fiscal Year 2008	\$130,500,000;
8	Fiscal Year 2009	\$130,500,000.

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

11 Beginning in fiscal year 2011, moneys in the Road Fund
12 shall be appropriated to the Secretary of State for the
13 exclusive purpose of paying refunds due to overpayment of fees
14 related to Chapter 3 of the Illinois Vehicle Code unless
15 otherwise provided for by law.

16 It shall not be lawful to circumvent this limitation on
17 appropriations by governmental reorganization or other
18 methods.

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

23 Nothing in this Section prohibits transfers from the Road
24 Fund to the State Construction Account Fund under Section 5e of
25 this Act; nor to the General Revenue Fund, as authorized by
26 this amendatory Act of the 93rd General Assembly; nor to the

1 Illiana Expressway Public Private Agreement Trust Fund, as
2 authorized by this amendatory act of the 98th General Assembly.

3 The additional amounts authorized for expenditure in this
4 Section by Public Acts 92-0600, 93-0025, 93-0839, and 94-91
5 shall be repaid to the Road Fund from the General Revenue Fund
6 in the next succeeding fiscal year that the General Revenue
7 Fund has a positive budgetary balance, as determined by
8 generally accepted accounting principles applicable to
9 government.

10 The additional amounts authorized for expenditure by the
11 Secretary of State and the Department of State Police in this
12 Section by this amendatory Act of the 94th General Assembly
13 shall be repaid to the Road Fund from the General Revenue Fund
14 in the next succeeding fiscal year that the General Revenue
15 Fund has a positive budgetary balance, as determined by
16 generally accepted accounting principles applicable to
17 government.

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

20 Section 10. The Public Private Agreements for the Illiana
21 Expressway Act is amended by changing Sections 20, 25, 40, and
22 47 and by adding Section 131 as follows:

23 (605 ILCS 130/20)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) the subject matter of the hearing;

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

11 and

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

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

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

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

2 (605 ILCS 130/25)

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

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

5 (a) The public private agreement shall include all of the
6 following:

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

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

11 (3) Compensation or payments to the Department, if
12 applicable;

13 (4) Compensation or payments to the contractor;

14 (5) A provision specifying that the Department:

15 (A) has ready access to information regarding the
16 contractor's powers, duties, responsibilities,
17 obligations, and functions under the public private
18 agreement;

19 (B) has the right to demand and receive information
20 from the contractor concerning any aspect of the
21 contractor's powers, duties, responsibilities,
22 obligations, and functions under the public private
23 agreement; and

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

1 (6) A provision imposing an affirmative duty on the
2 contractor to provide the Department with any information
3 the contractor reasonably believes the Department would
4 want to know or would need to know to enable the Department
5 to exercise its powers, carry out its duties,
6 responsibilities, and obligations, and perform its
7 functions under this Act or the public private agreement or
8 as otherwise required by law;

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

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

19 (9) The authority of the Department to enter into
20 contracts with third parties pursuant to Section 50 of this
21 Act;

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

24 (10.5) A provision stating that, in the event the
25 contractor finds it necessary, proper, or desirable to
26 enter into subcontracts with one or more design-build

1 entities, then it must follow a selection process that is,
2 to the greatest extent possible, identical to the selection
3 process contained in the Design-Build Procurement Act;

4 (11) The authority of the contractor to impose user
5 fees and the amounts of those fees, including the authority
6 of the contractor to use congestion pricing, pursuant to
7 which higher tolls rates are imposed during times or in
8 locations of increased congestion;

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

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

14 (14) A provision stating that the contractor must,
15 pursuant to Section 75 of this Act, finance an independent
16 audit if the construction costs under the contract exceed
17 \$50,000,000;

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

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

26 (17) Procedural requirements for obtaining the prior

1 approval of the Department when rights that are the subject
2 of the agreement, including but not limited to development
3 rights, construction rights, property rights, and rights
4 to certain revenues, are sold, assigned, transferred, or
5 pledged as collateral to secure financing or for any other
6 reason;

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

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

13 (19.5) A provision stating that construction
14 contractors shall comply with the requirements of Section
15 30-22 of the Illinois Procurement Code pursuant to Section
16 100 of this Act;

17 (20) Timelines, deadlines, and scheduling;

18 (21) Review of plans, including development,
19 financing, construction, management, or operations plans,
20 by the Department;

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

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

26 (24) A code of ethics for the contractor's officers and

1 employees; and

2 (25) Procedures for amendment to the agreement.

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

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

7 (2) Cash reserves requirements;

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

11 (4) Maintenance of public liability insurance;

12 (5) Maintenance of self-insurance;

13 (6) Provisions governing grants and loans, pursuant to
14 which the Department may agree to make grants or loans for
15 the development, financing, construction, management, or
16 operation of the Illiana Expressway project from time to
17 time from amounts received from the federal government or
18 any agency or instrumentality of the federal government or
19 from any State or local agency;

20 (7) Reimbursements to the Department for work
21 performed and goods, services, and equipment provided by
22 the Department; and

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

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

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

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

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

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

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

9 (3) Compensation or payments to the Department, if
10 applicable;

11 (4) Compensation or payments to the contractor;

12 (5) A provision specifying that the Department:

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

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

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

24 (6) A provision imposing an affirmative duty on the
25 contractor to provide the Department with any information

1 the contractor reasonably believes the Department would
2 want to know or would need to know to enable the Department
3 to exercise its powers, carry out its duties,
4 responsibilities, and obligations, and perform its
5 functions under this Act or the public private agreement or
6 as otherwise required by law;

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

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

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

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

22 (10.5) A provision stating that, in the event that the
23 contractor does not have a subcontract with a design-build
24 entity in effect at the time of execution of the
25 public-private agreement by the Department, the contractor
26 must follow a selection process that is, to the greatest

1 extent possible, identical to the selection process
2 contained in the Design-Build Procurement Act;

3 (11) The authority of the contractor and the Department
4 to impose user fees and the amounts of those fees,
5 including the authority of the contractor and the
6 Department to use congestion pricing, pursuant to which
7 higher tolls rates are imposed during times or in locations
8 of increased congestion;

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

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

14 (14) A provision stating that the contractor must,
15 pursuant to Section 75 of this Act, finance an independent
16 audit if the construction costs under the contract exceed
17 \$50,000,000;

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

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

26 (17) Procedural requirements for obtaining the prior

1 approval of the Department when rights that are the subject
2 of the agreement, including but not limited to development
3 rights, construction rights, property rights, and rights
4 to certain revenues, are sold, assigned, transferred, or
5 pledged as collateral to secure financing or for any other
6 reason;

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

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

13 (19.5) A provision stating that construction
14 contractors shall comply with the requirements of Section
15 30-22 of the Illinois Procurement Code pursuant to Section
16 100 of this Act;

17 (20) Timelines, deadlines, and scheduling;

18 (21) Review of plans, including development,
19 financing, construction, management, or operations plans,
20 by the Department;

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

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

26 (24) A code of ethics for the contractor's officers and

1 employees; and

2 (25) Procedures for amendment to the agreement.

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

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

7 (2) Cash reserves requirements;

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

11 (4) Maintenance of public liability insurance;

12 (5) Maintenance of self-insurance;

13 (6) Provisions governing grants and loans, pursuant to
14 which the Department may agree to make grants or loans for
15 the development, financing, construction, management, or
16 operation of the Illiana Expressway project from time to
17 time from amounts received from the federal government or
18 any agency or instrumentality of the federal government or
19 from any State or local agency;

20 (7) Reimbursements to the Department for work
21 performed and goods, services, and equipment provided by
22 the Department; and

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

26 (c) The public private agreement shall contain a

1 conspicuous statement to the following effect: (i) neither the
2 State, the Department, or any other State agency, political
3 corporation, or political subdivision of the State, is
4 obligated to make payments under the public private agreement
5 except as provided by this Act and by Sections 6z-100 and 8.3
6 of the State Finance Act; and (ii) neither the faith and credit
7 of the State, the Department, or any other State agency,
8 political corporation, or political subdivision of the State is
9 pledged to any of the payments required under the public
10 private agreement.

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

12 (605 ILCS 130/40)

13 Sec. 40. Public private agreement proceeds; deposit of user
14 fees. After the payment of all transaction costs, including
15 payments for legal, accounting, financial, consultation, and
16 other professional services, all moneys received by the State
17 as compensation for the public private agreement shall be
18 deposited into the Illiana Expressway Proceeds Fund, which is
19 hereby created as a special fund in the State treasury. In
20 addition, all user fees shall be deposited into the Illiana
21 Expressway Proceeds Fund. Expenditures may be made from the
22 Fund only in the manner as appropriated by the General Assembly
23 by law.

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

1 (605 ILCS 130/47)

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

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

8 (605 ILCS 130/131 new)

9 Sec. 131. Binding dispute resolution.

10 (a) The Department may include in the public private
11 agreement a provision authorizing a binding dispute resolution
12 process consistent with the Uniform Arbitration Act for any
13 claim or controversy subsequently arising out of the public
14 private agreement and the Department may agree to be bound by
15 this binding dispute resolution process.

16 (b) Any award against the Department made under the binding
17 dispute resolution process shall be paid only upon
18 appropriation by the General Assembly.

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

23 Section 95. No acceleration or delay. Where this Act makes
24 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section
2 represented by multiple versions), the use of that text does
3 not accelerate or delay the taking effect of (i) the changes
4 made by this Act or (ii) provisions derived from any other
5 Public Act.

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

8 Section 999. Effective date. This Act takes effect upon
9 becoming law.".