



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1900

Introduced 2/26/2021, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7.5

Creates the Public-Private Partnerships Act. Creates provisions addressing agreements between public and private entities; transparency between parties; oversight of projects; compliance with state and federal law; and fairness for local jurisdictions when negotiating public-private agreements. Adds provisions containing rules for the formation of an public-private partnership agreement; the establishment of the Infrastructure Investment Commission; the process for procuring contracts; the terms of a public-private partnership agreement; the creation of development and operation standards for projects; the taxation of contractors; financial arrangements; the insurance of debt by a responsible public entity; the acquisition of property; law enforcement; confidentiality of proposals; the maximum term of a public-private agreement; reversion of property to the State; powers of a responsible public entity with respect to qualifying projects; and prohibited local action. Makes a corresponding change in the Freedom of Information Act.

LRB102 14405 RAM 19757 b

1 AN ACT concerning public-private partnerships.

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

4 Article 1. General Provisions

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

7 Section 1-5. Public policy and legislative intent.

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

11 (b) Existing methods of procurement and financing of
12 facilities by responsible public entities impose limitations
13 on the methods by which facilities may be developed and
14 operated within the State.

15 (c) Authorizing private entities to do all or part of the
16 development, planning, design, construction, maintenance,
17 repair, rehabilitation, expansion, financing, and operation of
18 one or more facilities may result in the availability of the
19 facilities to the public in a more timely, more efficient, or
20 less costly fashion, thereby serving the public safety and
21 welfare.

22 (d) Public-private agreements entered into by private

1 entities and responsible public entities under this Act shall
2 allow for:

3 (1) transparency, oversight, and public information
4 sharing;

5 (2) compliance with all State of Illinois and federal
6 environmental laws; and

7 (3) fairness for local jurisdictions when negotiating
8 the public-private agreements.

9 (e) It is the intent of this Act to use Illinois design
10 professionals, construction companies, and workers to the
11 greatest extent possible by offering them the right to compete
12 for this work.

13 (f) It is the intent of this Act to use minority and women
14 business enterprises and economically disadvantaged firms to
15 the greatest extent possible.

16 (g) It is the intent of this Act to create jobs and provide
17 training for those jobs for minorities, women, and veterans to
18 the greatest extent possible.

19 Section 1-10. Actions serving a public purpose. An action
20 serves the public purpose of this Act if the action
21 facilitates the timely development, planning, design,
22 construction, maintenance, repair, rehabilitation, expansion,
23 financing, or operation of a qualifying project.

24 Section 1-15. Intent of Act. It is the intent of this Act

1 to:

2 (a) encourage investment in the State of Illinois by
3 private entities that facilitates the development, planning,
4 design, construction, maintenance, repair, rehabilitation,
5 expansion, financing, and operation of facilities; and

6 (b) grant public and private entities the greatest
7 possible flexibility in contracting with each other for the
8 provision of the public services that are the subject of this
9 Act.

10 Section 1-20. Construction with other laws. The powers
11 conferred by this Act shall be liberally construed in order to
12 accomplish their purposes and are in addition and supplemental
13 to the powers conferred by any other law. If any other law or
14 rule is inconsistent with this Act, this Act is controlling as
15 to any public-private agreement entered into under this Act.

16 Section 1-25. Authority for agreements.

17 This Act contains full and complete authority for agreements
18 and leases with private entities to carry out the activities
19 described in this Act. Except as provided in this Act, no
20 procedure, proceeding, publication, notice, consent, approval,
21 order, or act by a responsible public entity or any other State
22 or local government or official is required to enter into an
23 agreement or lease, and no law to the contrary affects,
24 limits, or diminishes the authority for agreements and leases

1 with private entities.

2 Section 1-30. Carrying out laws outside of Act. To the
3 extent that this Act permits or requires a responsible public
4 entity or a private entity to carry out or comply with any law
5 other than this Act under a public-private agreement, the
6 action shall be carried out in conformity with this Act.

7 Section 1-35. Definitions. As used in this Act:

8 "Affected jurisdiction" means the following:

9 (1) Any county, municipality, township, special
10 district, or unit designated as a unit of local government
11 by law in which all or a part of a qualifying project is
12 located.

13 (2) Any other public entity directly affected by the
14 qualifying project.

15 "Authority" means the Illinois State Toll Highway
16 Authority.

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

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

23 "Design-build agreement" means the agreement between the
24 selected private entity and the responsible public entity

1 under which the selected private entity agrees to furnish
2 design, construction, and related services for a facility
3 under this Act.

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

7 "Facility" means:

8 (1) A facility or project that serves a public
9 purpose, including, but not limited to, any new or
10 existing road, highway, toll highway, bridge, tunnel,
11 intermodal facility, intercity or high-speed passenger
12 rail, rail project or facility, ferry or mass transit
13 facility, vehicle parking facility, airport or seaport
14 facility, or other transportation facility or
15 infrastructure, any, administrative facility,
16 broadband-related project or facility, correctional
17 institution or facility, energy-related project or
18 facility, fuel supply facility, oil or gas pipeline,
19 medical or nursing care facility, recreational facility,
20 sporting or cultural facility, or educational facility or
21 other building or facility that is used or will be used by
22 a public educational institution, or any other public
23 facility or infrastructure that is used or will be used by
24 the public at large or in support of an accepted public
25 purpose or activity;

26 (2) An improvement, including equipment, of a building

1 that will be principally used by a public entity or the
2 public at large or that supports a service delivery system
3 in the public sector;

4 (3) A sanitation, water, potable water, underground
5 water, wastewater, or surface water facility or other
6 related infrastructure; or

7 (4) For projects that involve a facility owned or
8 operated by the governing board of a county, municipality,
9 township, special district, or municipal hospital or
10 health care system, or projects that involve a facility
11 owned or operated by a municipal utility, notwithstanding
12 any provision of this Act, only those projects that the
13 governing board designates as qualifying projects pursuant
14 to this Act.

15 "Maintain" or "maintenance" includes ordinary maintenance,
16 repair, rehabilitation, capital maintenance, maintenance
17 replacement, and any other categories of maintenance that may
18 be designated by the responsible public entity.

19 "Operate" or "operation" means to do one or more of the
20 following: maintain, improve, equip, modify, or otherwise
21 operate.

22 "Private entity" means any combination of one or more
23 individuals, sole proprietorships, corporations, general
24 partnerships, limited liability companies, limited
25 partnerships, joint ventures, business trusts, nonprofit
26 entities, or other business entities that are parties to a

1 proposal for a qualifying project or an agreement related to a
2 qualifying project. A public agency may provide services to a
3 contractor as a subcontractor or subconsultant without
4 affecting the private status of the private entity and the
5 ability to enter into a public-private agreement.

6 "Project" means any or the combination of the development,
7 financing, or operation with respect to all or a portion of any
8 facility under the jurisdiction of a responsible public entity
9 undertaken pursuant to this Act.

10 "Proposal" means all materials and documents prepared by
11 or on behalf of a private entity relating to the proposed
12 development, financing, or operation of a facility as a
13 qualifying project.

14 "Proposer" means a private entity that has submitted an
15 unsolicited proposal for a public-private agreement to a
16 responsible public entity under this Act or submitted a
17 proposal or statement of qualifications for a public-private
18 agreement in response to a request for proposals or a request
19 for qualifications issued by a responsible public entity under
20 this Act.

21 "Public-private agreement" means the public-private
22 agreement between the contractor and the responsible public
23 entity relating to one or more of the development, financing,
24 or operation of a qualifying project that is entered into
25 under this Act.

26 "Qualifying project" means one or more projects developed,

1 financed, or operated by a contractor under this Act.

2 "Request for information" means all materials and
3 documents prepared by or on behalf of a responsible public
4 entity to solicit information from private entities with
5 respect to qualifying projects.

6 "Request for proposals" means all materials and documents
7 prepared by or on behalf of a responsible public entity to
8 solicit proposals from private entities to enter into a
9 public-private agreement.

10 "Request for qualifications" means all materials and
11 documents prepared by or on behalf of a responsible public
12 entity to solicit statements of qualification from private
13 entities to enter into a public-private agreement.

14 "Responsible public entity" means a county, municipality,
15 school district, special district, or any other political
16 subdivision of the State or unit of local government; a public
17 body corporate and politic; or a regional entity that serves a
18 public purpose and is authorized to develop or operate a
19 qualifying project.

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 qualifying project,
26 including the development, financing, and operation of a

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

7 "Shortlist" means the process by which a responsible
8 public entity will review, evaluate, and rank statements of
9 qualifications submitted in response to a request for
10 qualifications and then identify the proposers who are
11 eligible to submit a detailed proposal in response to a
12 request for proposals. The identified proposers constitute the
13 shortlist for the qualifying project to which the request for
14 proposals relates.

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

19 "User fees" or "tolls" means the rates, tolls, fees, or
20 other charges imposed by the contractor for use of all or a
21 portion of a qualifying project under a public-private
22 agreement.

23 Article 2. Formation of an Agreement

24 Section 2-1. Exercise of powers.

1 (a) A responsible public entity may exercise the powers
2 granted by this Act to do some or all of the work to develop,
3 finance, and operate any part of one or more qualifying
4 projects through public-private agreements with one or more
5 private entities.

6 (b) The Authority may enter into a public-private
7 partnership to develop, finance, and operate nonhighway
8 transportation projects on the toll highway system such as
9 commuter rail or high-speed rail lines, and intelligent
10 transportation infrastructure that will enhance the safety,
11 efficiency, and environmental quality of the State highway
12 system. The Authority may operate or provide operational
13 services such as toll collection on highways that are
14 developed or financed, or both, through a public-private
15 agreement entered into by another public entity, under an
16 agreement with the public entity or contractor responsible for
17 the transportation project.

18 Section 2-5. Powers of contractor; user fees. A contractor
19 has:

20 (a) all powers allowed by law generally to a private
21 entity having the same form of organization as the contractor;
22 and

23 (b) the power to develop, finance, and operate the
24 facility and to impose and collect user fees in connection
25 with the use of the facility, subject to the terms of the

1 public-private agreement.

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

4 Section 2-10. Powers of contractor; property interests.
5 The contractor may own, lease, or acquire any property
6 interest or other right to develop, finance, or operate the
7 qualifying project.

8 Section 2-15. Powers of contractor; user classifications
9 and enforcement of rules. In operating the qualifying project,
10 the contractor may do the following:

11 (a) Make user classifications as permitted in the
12 public-private agreement.

13 (b) As permitted in the public-private agreement or
14 otherwise with the consent of the responsible public entity,
15 make and enforce reasonable rules to the same extent that the
16 responsible public entity may make and enforce rules with
17 respect to a similar project.

18 Article 3. Infrastructure Investment Commission

19 Section 3-1. Establishment.

20 (a) There is established an Infrastructure Investment
21 Commission reporting to the Governor and independent of other
22 agencies and departments of the State. The Commission shall be

1 headed by an Executive Director, appointed by a majority vote
2 of the Commission, who shall have demonstrated knowledge,
3 training, or experience in one or more of the following areas:

4 (1) infrastructure development or operation;

5 (2) capital markets and finance, including municipal
6 finance;

7 (3) public-sector planning; or

8 (4) procurement.

9 (b) The Executive Director shall hold office for 4 years
10 from the date of appointment, and until a successor shall be
11 duly appointed and qualified, but shall be subject to removal
12 by the Commission for incompetency, neglect of duty or
13 malfeasance.

14 (c) The Executive Director shall receive a salary of
15 \$15,000 per annum, or as set by the Compensation Review Board,
16 whichever is greater, payable in monthly installments,
17 together with reimbursement for necessary expenses incurred in
18 the performance of the duties of the Executive Director. The
19 Executive Director shall be eligible for reappointment.

20 (d) The Commission established pursuant to this Section
21 3-1 shall be composed of 7 members, appointed as follows:

22 (1) Seven members appointed by the Governor with the
23 advice and consent of the Senate having expertise,
24 knowledge, or experience in infrastructure development or
25 operation, capital markets and finance, public-sector
26 planning, or procurement.

1 (2) Not more than 4 members of the Commission shall be
2 members of the same political party. Members of the
3 Commission shall represent geographically diverse regions
4 of the State.

5 (3) Vacancies shall be filled for the unexpired term
6 in the same manner as original appointments. All
7 appointments shall be in writing and filed with the
8 Secretary of State as a public record.

9 (e) Of the members appointed by the Governor, one such
10 member shall be appointed by the Governor as chairperson and
11 shall hold office for 4 years from the date of appointment, and
12 until a successor shall be duly appointed and qualified, but
13 shall be subject to removal by the Governor for incompetency,
14 neglect of duty or malfeasance.

15 (f) The chairperson shall preside at all meetings of the
16 Commission; shall exercise general supervision over all
17 powers, duties, obligations and functions of the Commission;
18 and shall approve or disapprove all resolutions, bylaws,
19 rules, rates, and regulations made and established by the
20 Commission, and if the chairperson approves, the chairperson
21 shall sign the same, and such as the chairperson shall not
22 approve, the chairperson shall return to the Commission with
23 objections thereto in writing at the next regular meeting of
24 the Commission occurring after the passage thereof. Such veto
25 may extend to any one or more items contained in such
26 resolution, bylaw, rule, rate, or regulation, or to its

1 entirety; and in case the veto extends to a part of such
2 resolution, bylaw, rule, rate, or regulation, the residue
3 thereof shall take effect and be in force, but in case the
4 chairperson shall fail to return any resolution, bylaw, rule,
5 rate, or regulation with objections thereto by the time
6 aforesaid, the chairperson shall be deemed to have approved
7 the same, and the same shall take effect accordingly. Upon the
8 return of any resolution, bylaw, rule, rate, or regulation by
9 the chairperson, the vote by which the same was passed shall be
10 reconsidered by the Commission, and if upon such
11 reconsideration two-thirds of all the members agree by yeas
12 and nays to pass the same, it shall go into effect
13 notwithstanding the chairperson's refusal to approve thereof.
14 The process of approving or disapproving all resolutions,
15 bylaws, rules, rates, and regulations, as well as the ability
16 of the members to override the disapproval of the chairperson,
17 under this Section shall be set forth in the Commission's
18 bylaws. Nothing in the Commission's bylaws, rules, or
19 regulations may be contrary to this Section.

20 (g) Of the original members, other than the chairperson,
21 so appointed by the Governor, 3 shall hold office for 2 years
22 and 3 shall hold office for 4 years, from the date of their
23 appointment and until their respective successors shall be
24 duly appointed and qualified, but shall be subject to removal
25 by the Governor for incompetency, neglect of duty, or
26 malfeasance. In case of vacancies in such offices during the

1 recess of the Senate, the Governor shall make a temporary
2 appointment until the next meeting of the Senate when the
3 Governor shall nominate some person to fill such office and
4 any person so nominated, who is confirmed by the Senate, shall
5 hold office during the remainder of the term and until a
6 successor shall be appointed and qualified. The respective
7 term of the first members appointed shall be designated by the
8 Governor at the time of appointment, but their successors
9 shall each be appointed for a term of 4 years, except that any
10 person appointed to fill a vacancy shall serve only for the
11 unexpired term. Members shall be eligible for reappointment.
12 Members shall serve until their respective successors are duly
13 appointed and qualified.

14 (h) Each such member, other than ex officio members shall
15 receive an annual salary of \$10,000, or as set by the
16 Compensation Review Board, whichever is greater, payable in
17 monthly installments, and shall be reimbursed for necessary
18 expenses incurred in the performance of duties under this Act.

19 Section 3-5. Duties of the Commission. The Commission
20 shall:

21 (a) Assist responsible public entities with
22 identifying projects, including opportunities for project
23 aggregation, for which a public-private partnership may be
24 appropriate;

25 (b) Provide technical assistance and expertise to

1 responsible public entities on using public-private
2 partnerships to develop or operate qualifying projects,
3 including analyzing their benefits and costs and the
4 innovative financing options available to support them;

5 (c) Supply template contracts;

6 (d) Track proposed, ongoing, and completed
7 private-public partnerships;

8 (e) Identify methods of encouraging competition for
9 the development or operation of qualifying projects;

10 (f) Serve as a liaison to State or federal government
11 officials charged with promoting public-private
12 infrastructure partnerships, other State executive
13 directors of infrastructure investment commissions and
14 regional or metropolitan public-private partnership
15 offices;

16 (g) Conduct public and stakeholder engagement and
17 outreach, including efforts to encourage transparency and
18 information sharing regarding public-private
19 partnerships;

20 (h) Promote best practices, including standardized
21 methodologies and processes; and

22 (i) Attract private investment in infrastructure to
23 the State.

24 Section 3-10. Duties of the Executive Director of the
25 Commission.

1 (a) The Executive Director shall provide to the standing
2 committees of the responsible public entity having
3 jurisdiction over transportation or infrastructure and post
4 online a report annually within 6 weeks of the end of each
5 fiscal year that:

6 (1) Lists those public-private partnerships that:

7 (i) are expected to be soliciting bids within the
8 next fiscal year;

9 (ii) are in progress;

10 (iii) were completed during the prior fiscal year;

11 or

12 (iv) were removed from consideration during the
13 prior fiscal year; and

14 (2) Summarizes actions taken by the Commission to
15 fulfill its duties pursuant to Section 3-5 of this
16 Article.

17 (b) The Executive Director shall be responsible to the
18 Commission for the proper administration of the affairs of the
19 Commission and policies adopted by the chairperson and members
20 of the Commission.

21 (c) All employees, as are necessary to the proper
22 functioning of the Commission, shall be appointed by the
23 Executive Director with the consent of the Commission.

24 Section 3-15. State permitting. The Commission shall
25 coordinate with responsible public entities on State

1 environmental reviews and permitting for all qualifying
2 projects subject to this Act. As soon as practicable, and not
3 later than the commencement of a public-private agreement, the
4 responsible public entity shall identify all necessary State
5 permits, and in consultation with the Commission and relevant
6 State offices and departments, shall create a timeline for
7 review and issuance of such permits. The Commission shall
8 maintain on its website a listing of projects under this
9 Section for which State permits are delayed more than 90 days
10 past the deadline specified in the timeline and post an
11 official explanation for the delay that shall come from the
12 office in charge of approving the permit, or link to public
13 websites containing such information.

14 Article 4. Procurement Process

15 Section 4-1. Procurement procedures. A responsible public
16 entity may receive unsolicited proposals or may solicit
17 proposals for a qualifying project and may thereafter enter
18 into a public-private agreement with a private entity, or a
19 consortium of private entities, for the building, upgrading,
20 operating, ownership, or financing of facilities.

21 (a) (1) The responsible public entity may establish a
22 reasonable application fee for the submission of an
23 unsolicited proposal under this Section.

24 (2) A private entity that submits an unsolicited proposal

1 to a responsible public entity must concurrently pay an
2 initial application fee, as determined by the responsible
3 public entity.

4 (3) If the responsible public entity chooses to evaluate
5 an unsolicited proposal involving architecture, engineering,
6 or landscape architecture, it must ensure a professional
7 review and evaluation of the design and construction proposed
8 by the initial or subsequent proposers to ensure material
9 quality standards, interior space use, budget estimates,
10 design and construction schedules, and sustainable design and
11 construction standards consistent with public projects. Such
12 review shall be performed by an architect, a landscape
13 architect, or an engineer licensed in this State qualified to
14 perform the review, and such professional shall advise the
15 responsible public entity through completion of the design and
16 construction of the project.

17 (b) The responsible public entity may request a proposal
18 from private entities for a qualifying project or, if the
19 responsible public entity receives an unsolicited proposal for
20 a qualifying project and the responsible public entity intends
21 to enter into a public-private agreement for the project
22 described in the unsolicited proposal, the responsible public
23 entity shall publish notice in the State of Illinois
24 Procurement Bulletin and a newspaper of general circulation
25 within the responsible public entity at least once a week for 2
26 weeks stating that the responsible public entity has received

1 a proposal and will accept other proposals for the same
2 project. The timeframe within which the responsible public
3 entity may accept other proposals shall be determined by the
4 responsible public entity on a project-by-project basis based
5 upon the complexity of the qualifying project and the public
6 benefit to be gained by allowing a longer or shorter period of
7 time within which other proposals may be received; however,
8 the timeframe for allowing other proposals must be at least 21
9 days, but no more than 120 days, after the initial date of
10 publication. If approved by a majority vote of the responsible
11 public entity's governing body, the responsible public entity
12 may alter the timeframe for accepting proposals to more
13 adequately suit the needs of the qualifying project; however,
14 in no event shall such timeframe exceed 180 days. A copy of the
15 notice must be mailed to each local government in the affected
16 jurisdiction.

17 (c) If the solicited qualifying project provided in
18 subsection (b) includes design work, the solicitation must
19 include a design criteria package prepared by an architect, a
20 landscape architect, or an engineer licensed in this State
21 that is sufficient to allow private entities to prepare a bid
22 or a response. The design criteria package must specify
23 reasonably specific criteria for the qualifying project such
24 as the legal description of the site, with survey information;
25 interior space requirements; material quality standards;
26 schematic layouts and conceptual design criteria for the

1 qualifying project; cost or budget estimates; design and
2 construction schedules; and site development and utility
3 requirements. The licensed design professional who prepares
4 the design criteria package shall be retained to serve the
5 responsible public entity through completion of the design and
6 construction of the project.

7 (d) Before approving a public-private agreement, the
8 responsible public entity must determine that the proposed
9 project:

10 (1) Is in the public's best interest.

11 (2) Is for a facility that is owned by the responsible
12 public entity or for a facility for which ownership will
13 be conveyed to the responsible public entity.

14 (3) Has adequate safeguards in place to ensure that
15 additional costs or service disruptions are not imposed on
16 the public in the event of material default or
17 cancellation of the public-private agreement by the
18 responsible public entity.

19 (4) Has adequate safeguards in place to ensure that
20 the responsible public entity or private entity has the
21 opportunity to add capacity to the proposed project or
22 other facilities serving similar predominantly public
23 purposes.

24 (5) Will be owned by the responsible public entity
25 upon completion, expiration, or termination of the
26 public-private agreement and upon payment of the amounts

1 financed.

2 (e) Before signing a public-private agreement, the
3 responsible public entity must consider a reasonable finance
4 plan that is consistent with Article 8; the qualifying project
5 cost; revenues by source; available financing; major
6 assumptions; internal rate of return on private investments,
7 if governmental funds are assumed in order to deliver a
8 cost-feasible project; and a total cash-flow analysis
9 beginning with the implementation of the project and extending
10 for the term of the public-private agreement.

11 (f) In considering an unsolicited proposal, the
12 responsible public entity may require from the private entity
13 a technical study prepared by a nationally recognized expert
14 with experience in preparing analysis for bond rating
15 agencies. In evaluating the technical study, the responsible
16 public entity may rely upon internal staff reports prepared by
17 personnel familiar with the operation of similar facilities or
18 the advice of external advisors or consultants who have
19 relevant experience.

20 Section 4-5. Project approval requirements. An unsolicited
21 proposal from a private entity for approval of a qualifying
22 project must be accompanied by the following material and
23 information, unless waived by the responsible public entity:

24 (1) A description of the qualifying project, including
25 the conceptual design of the facilities or a conceptual

1 plan for the provision of services, and a schedule for the
2 initiation and completion of the qualifying project.

3 (2) A description of the method by which the private
4 entity proposes to secure the necessary property interests
5 that are required for the qualifying project.

6 (3) A description of the private entity's general
7 plans for financing the qualifying project, including the
8 sources of the private entity's funds and the identity of
9 any dedicated revenue source or proposed debt or equity
10 investment on behalf of the private entity.

11 (4) The name and address of a person who may be
12 contacted for additional information concerning the
13 proposal.

14 (5) The proposed user fees, lease payments, or other
15 service payments over the term of a public-private
16 agreement, and the methodology for and circumstances that
17 would allow changes to the user fees, lease payments, and
18 other service payments over time.

19 (6) Additional material or information that the
20 responsible public entity reasonably requests, including,
21 without limitation, information that the responsible
22 public entity requires in response to a request for
23 proposals.

24 Any pricing or financial terms included in an unsolicited
25 proposal must be specific as to when the pricing or terms
26 expire.

1 Section 4-10. Project qualification and process.

2 (a) The private entity, or the applicable party or parties
3 of the private entity's team, must meet the minimum standards
4 contained in the responsible public entity's guidelines for
5 qualifying professional services and contracts for traditional
6 procurement projects.

7 (b) The responsible public entity must:

8 (1) Ensure that provision is made for the private
9 entity's performance and payment of subcontractors,
10 including, but not limited to, surety bonds, letters of
11 credit, parent company guarantees, and lender and equity
12 partner guarantees. For the components of the qualifying
13 project that involve construction performance and payment,
14 bonds are required and are subject to the recordation,
15 notice, suit limitation, and other requirements of the
16 Public Construction Bond Act.

17 (2) Ensure the most efficient pricing of the security
18 package that provides for the performance and payment of
19 subcontractors.

20 (3) Ensure that the public-private agreement addresses
21 termination upon a material default of the public-private
22 agreement.

23 (c) After the public notification period has expired in
24 the case of an unsolicited proposal, the responsible public
25 entity shall rank the proposals received in order of

1 preference. In ranking the proposals, the responsible public
2 entity may consider factors that include, but are not limited
3 to, public benefit, professional qualifications, general
4 business terms, innovative design techniques or cost-reduction
5 terms, and finance plans. The responsible public entity may
6 then begin negotiations for a public-private agreement with
7 the highest-ranked firm. If the responsible public entity is
8 not satisfied with the results of the negotiations, the
9 responsible public entity may terminate negotiations with the
10 proposer and negotiate with the second-ranked or
11 subsequent-ranked firms, in the order consistent with this
12 procedure. If only one proposal is received, the responsible
13 public entity may negotiate in good faith, and if the
14 responsible public entity is not satisfied with the results of
15 the negotiations, the responsible public entity may terminate
16 negotiations with the proposer.

17 (d) The responsible public entity shall perform an
18 independent analysis of the proposed public-private
19 partnership that demonstrates the cost-effectiveness and
20 overall public benefit before the procurement process is
21 initiated or before the contract is awarded.

22 (e) The responsible public entity may approve the
23 development or operation of a qualifying project, or the
24 design or equipping of a qualifying project that is developed
25 or operated, if:

26 (1) There is a public need for or benefit derived from

1 a project of the type that the private entity proposes as
2 the qualifying project.

3 (2) The estimated cost of the qualifying project is
4 reasonable in relation to similar facilities.

5 (3) The private entity's plans will result in the
6 timely acquisition, design, construction, improvement,
7 renovation, expansion, equipping, maintenance, or
8 operation of the qualifying project.

9 (f) The responsible public entity may charge a reasonable
10 fee to cover the costs of processing, reviewing, and
11 evaluating the request, including, but not limited to,
12 reasonable attorney fees and fees for financial and technical
13 advisors or consultants and for other necessary advisors or
14 consultants.

15 (g) Upon approval of a qualifying project, the responsible
16 public entity shall establish a date for the commencement of
17 activities related to the qualifying project. The responsible
18 public entity may extend the commencement date.

19 (h) Approval of a qualifying project by the responsible
20 public entity is subject to entering into a public-private
21 agreement with the private entity.

22 Section 4-15. Interim agreement. Before or in connection
23 with the negotiation of a public-private agreement, the
24 responsible public entity may enter into an interim agreement
25 with the private entity proposing the development or operation

1 of the qualifying project. An interim agreement does not
2 obligate the responsible public entity to enter into a
3 public-private agreement. The interim agreement is
4 discretionary with the parties and is not required on a
5 qualifying project for which the parties may proceed directly
6 to a public-private agreement without the need for an interim
7 agreement. An interim agreement must be limited to provisions
8 that:

9 (a) Authorize the private entity to commence
10 activities for which it may be compensated related to the
11 proposed qualifying project, including, but not limited
12 to, project planning and development, design,
13 environmental analysis and mitigation, survey, other
14 activities concerning any part of the proposed qualifying
15 project, and ascertaining the availability of financing
16 for the proposed facility or facilities.

17 (b) Establish the process and timing of the
18 negotiation of the public-private agreement.

19 (c) Contain such other provisions related to an aspect
20 of the development or operation of a qualifying project
21 that the responsible public entity and the private entity
22 deem appropriate.

23 Section 4-20. Payment of stipulated amount for work
24 product of unsuccessful proposer; rights; liability. The
25 responsible public entity may pay a stipulated amount to an

1 unsuccessful proposer that submits a responsive proposal in
2 response to a request for proposals under this Article, in
3 exchange for the work product contained in that proposal. The
4 use by the responsible public entity of any design element
5 contained in an unsuccessful proposal is at the sole risk and
6 discretion of the responsible public entity and does not
7 confer liability on the recipient of the stipulated amount
8 under this Section. After payment of the stipulated amount:

9 (a) the responsible public entity and the unsuccessful
10 proposer jointly own the rights to, and may make use of any
11 work product contained in, the proposal, including the
12 technologies, techniques, methods, processes, ideas, and
13 information contained in the proposal, project design, and
14 project financial plan; and

15 (b) the use by the unsuccessful proposer of any part
16 of the work product contained in the proposal is at the
17 sole risk of the unsuccessful proposer and does not confer
18 liability on the responsible public entity.

19 Section 4-25. Additional rights of responsible public
20 entity. In addition to any other rights under this Act, in
21 connection with any procurement under this Article, the
22 responsible public entity may:

23 (a) withdraw a request for information, request for
24 qualifications, or a request for proposals at any time
25 and, in its discretion, publish a new request for

- 1 qualifications or request for proposals;
- 2 (b) decline to approve a proposal for any reason;
- 3 (c) decline to award a public-private agreement for
- 4 any reason;
- 5 (d) request clarifications to any statement of
- 6 information, qualifications, or proposal received, to seek
- 7 one or more revised proposals or one or more best and final
- 8 offers, or to conduct negotiations with one or more
- 9 private entities that have submitted proposals;
- 10 (e) modify the terms, provisions, and conditions of a
- 11 request for qualification, request for proposals,
- 12 technical specifications, or form of public-private
- 13 agreement during the pendency of a procurement;
- 14 (f) interview proposers; and
- 15 (g) any other rights available to the responsible
- 16 public entity under applicable law and administrative
- 17 rule.

18 Section 4-30. Confidentiality of proposals; disclosure.

19 (a) The responsible public entity may not disclose the

20 contents of proposals during discussions or negotiations with

21 potential proposers.

22 (b) The responsible public entity may, in its discretion

23 in accordance with the Freedom of Information Act, treat as

24 confidential all records relating to discussions or

25 negotiations between the responsible public entity and

1 potential proposers if those records are created while
2 discussions or negotiations are in progress.

3 (c) Notwithstanding subsections (a) and (b), and with the
4 exception of portions that are confidential under the Freedom
5 of Information Act, the terms of the selected offer negotiated
6 under this Act shall be available for inspection and copying
7 under the Freedom of Information Act after negotiations with
8 the proposers have been completed.

9 (d) When disclosing the terms of the selected offer under
10 subsection (c), the responsible public entity shall certify
11 that the information being disclosed accurately and completely
12 represents the terms of the selected offer.

13 (e) The responsible public entity shall disclose the
14 contents of all proposals, except the parts of the proposals
15 that may be treated as confidential in accordance with the
16 Freedom of Information Act, when either:

17 (1) the request for proposal process is withdrawn
18 under Section 4-25; or

19 (2) the public-private agreement has been executed and
20 the closing for each financing transaction required to
21 provide funding to carry out the agreement has been
22 conducted.

23 Article 5. Public-Private Agreements

24 Section 5-1. Provisions of agreement.

1 (a) Before beginning the development; the financing; the
2 operation; or any combination of the development, financing,
3 or operation of a qualifying project under this Act, the
4 contractor must enter into a public-private agreement with the
5 responsible public entity. Subject to the other provisions of
6 this Act, the responsible public entity and a private entity
7 may enter into a public-private agreement with respect to a
8 qualifying project. Subject to the requirements of this Act, a
9 public-private agreement may provide that the private entity,
10 acting on behalf of the responsible public entity, is
11 partially or entirely responsible for any combination of
12 developing, financing, or operating the qualifying project.

13 (b) The public-private agreement may, as determined
14 appropriate by the responsible public entity for the
15 particular qualifying project, provide for some or all of the
16 following:

17 (1) Development, planning, design, construction,
18 maintenance, repair, rehabilitation, expansion,
19 financing, and operation of the qualifying project under
20 terms set forth in the public-private agreement, in any
21 form as deemed appropriate by the responsible public
22 entity, including, but not limited to, a long-term
23 concession and lease, a design-bid-build agreement, a
24 design-build agreement, a design-build-maintain
25 agreement, a design-build-finance agreement, a
26 design-build-operate-maintain agreement and a

1 design-build-finance-operate-maintain agreement.

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

19 (3) Review of plans for any development or operation,
20 or both, of the qualifying project by the responsible
21 public entity.

22 (4) Inspection of any construction of or improvements
23 to the qualifying project by the responsible public entity
24 or another entity designated by the responsible public
25 entity or under the public-private agreement to ensure
26 that the construction or improvements conform to the

1 standards set forth in the public-private agreement or are
2 otherwise acceptable to the responsible public entity.

3 (5) Maintenance of:

4 (A) one or more policies of public liability
5 insurance (copies of which shall be filed with the
6 responsible public entity accompanied by proofs of
7 coverage); or

8 (B) self-insurance;

9 each in the form and amount as set forth by the
10 public-private agreement or otherwise satisfactory to the
11 responsible public entity as reasonably sufficient to
12 insure coverage of tort liability to the public and
13 employees and to enable the continued operation of the
14 qualifying project.

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

23 (7) Reimbursement to be paid to the responsible public
24 entity as set forth in the public-private agreement for
25 services provided by the responsible public entity.

26 (8) Filing of appropriate financial statements and

1 reports as set forth in the public-private agreement or as
2 otherwise in a form acceptable to the responsible public
3 entity on a periodic basis.

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

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

10 (B) A development fee, payable on a lump sum
11 basis, progress payment basis, time and materials
12 basis, or any other basis considered appropriate by
13 the responsible public entity.

14 (C) An operations fee, payable on a lump sum
15 basis, time and material basis, periodic basis, or any
16 other basis considered appropriate by the responsible
17 public entity.

18 (D) Some or all of the revenues, if any, arising
19 out of operation of the qualifying project.

20 (E) A maximum rate of return on investment or
21 return on equity or a combination of the 2.

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

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

3 (I) Other compensation set forth in the
4 public-private agreement or otherwise considered
5 appropriate by the responsible public entity.

6 (10) Compensation or payments to the responsible
7 public entity, if any. Compensation or payments may
8 include any one or 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 responsible
12 public entity.

13 (B) Sharing of revenues, if any, from the
14 operation of the qualifying project.

15 (C) Sharing of project savings from the
16 construction of the qualifying project.

17 (D) Payment for any services, materials,
18 equipment, personnel, or other items provided by the
19 responsible public entity to the contractor under the
20 public-private agreement or in connection with the
21 qualifying project.

22 (E) Other compensation set forth in the
23 public-private agreement or otherwise considered
24 appropriate by the responsible public entity.

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 before
3 that date.

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

7 (13) Rights and remedies of the responsible public
8 entity if the contractor defaults or otherwise fails to
9 comply with the terms of the public-private agreement.

10 (14) Procedures for the selection of professional
11 design firms and subcontractors, which shall include
12 procedures consistent with the Architectural, Engineering,
13 and Land Surveying Qualifications Based Selection Act for
14 the selection of professional design firms and may
15 include, in the discretion of the responsible public
16 entity, procedures consistent with the low bid procurement
17 procedures outlined in the Illinois Procurement Code for
18 the selection of construction companies.

19 (15) Other terms, conditions, and provisions that the
20 responsible public entity believes are in the public
21 interest.

22 Section 5-5. Additional requirements.

23 (a) The responsible public entity may fix and revise the
24 amounts of user fees that a contractor may charge and collect
25 for the use of any part of a qualifying project in accordance

1 with the public-private agreement. In fixing the amounts, the
2 responsible public entity may establish maximum amounts for
3 the user fees and may provide that the maximums and any
4 increases or decreases of those maximums shall be based upon
5 the indices, methodologies, or other factors the responsible
6 public entity considers appropriate.

7 (b) A public-private agreement may:

8 (1) authorize the imposition of tolls in any manner
9 determined appropriate by the responsible public entity
10 for the qualifying project;

11 (2) authorize the contractor to adjust the user fees
12 for the use of the qualifying project, so long as the
13 amounts charged and collected by the contractor do not
14 exceed the maximum amounts established by the responsible
15 public entity under the public-private agreement;

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

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

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

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

8 Section 5-10. Grants or loans for qualifying project. In
9 the public-private agreement, the responsible public entity
10 may agree to make grants or loans for the development or
11 operation, or both, of the qualifying project from time to
12 time from amounts received from the federal government or any
13 agency or instrumentality of the federal government or from
14 any State or local agency.

15 Section 5-15. Terms and conditions in agreement. The
16 public-private agreement must incorporate the duties of the
17 contractor under this Act and may contain the other terms and
18 conditions that the responsible public entity determines serve
19 the public purpose of this Act. The public-private agreement
20 may contain provisions under which the responsible public
21 entity agrees to provide notice of default and cure rights for
22 the benefit of the contractor and the persons or entities
23 described in the public-private agreement that are providing
24 financing for the qualifying project. The public-private

1 agreement may contain any other lawful term or condition to
2 which the contractor and the responsible public entity
3 mutually agree, including provisions regarding change orders,
4 dispute resolution, required upgrades to the qualifying
5 project, tolling policies, changes and modifications to the
6 qualifying project, unavoidable delays, or provisions for a
7 loan or grant of public funds for the development or
8 operation, or both, of one or more qualifying projects.

9 Section 5-20. Responsible public entity takeover of
10 qualifying project after termination or expiration.

11 (a) Upon the termination or expiration of the
12 public-private agreement, including a termination for default,
13 the responsible public entity shall have the right to take
14 over the qualifying project and to succeed to all of the right,
15 title, and interest in the qualifying project and all real
16 property acquired as a part of the project shall be held in the
17 name of the responsible public entity.

18 (b) If a responsible public entity elects to take over a
19 qualifying project as provided in subsection (a), the
20 responsible public entity may do the following:

21 (1) Develop, finance, or operate the project,
22 including through a public-private agreement entered into
23 in accordance with this Act.

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

1 (c) If a responsible public entity elects to take over a
2 qualifying project as provided in subsection (a), the
3 responsible public entity may use the revenues, if any, for
4 any lawful purpose, including to:

5 (1) Make payments to individuals or entities in
6 connection with any financing of the qualifying project,
7 including through a public-private agreement entered into
8 in accordance with this Act.

9 (2) Permit a contractor to receive some or all of the
10 revenues under a public-private agreement entered into
11 under this Act.

12 (3) Pay development costs of the project.

13 (4) Pay current operation costs of the project or
14 facilities.

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

17 (6) Pay for the development, financing, or operation
18 of any other project or projects the responsible public
19 entity deems appropriate.

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

1 obligation of the contractor.

2 Section 5-25. Changes added by written amendment. Any
3 changes in the terms of the public-private agreement agreed to
4 by the parties shall be added to the public-private agreement
5 by written amendment.

6 Section 5-30. Agreements with multiple private entities.
7 Notwithstanding any other provision of this Act, the
8 responsible public entity may enter into a public-private
9 agreement with multiple private entities if the responsible
10 public entity determines in writing that it is in the public
11 interest to do so.

12 Section 5-35. Agreement provisions for qualifying project.
13 The public-private agreement may provide for all or part of
14 the development, financing, or operation of phases or segments
15 of the qualifying project.

16 Article 6. Development and Operations Standards for Projects

17 Section 6-1. Standards of compliance for plans and
18 specifications. The plans and specifications, if any, for each
19 project developed under this Act must comply with:

20 (a) the responsible public entity's standards for
21 other projects of a similar nature or as otherwise

1 provided in the public-private agreement;

2 (b) the Professional Engineering Practice Act of 1989,
3 the Structural Engineering Practice Act of 1989, the
4 Illinois Architecture Practice Act of 1989, the
5 requirements of Section 30-22 of the Illinois Procurement
6 Code as they apply to responsible bidders, and the
7 Illinois Professional Land Surveyor Act of 1989; and

8 (c) any other applicable State or federal standards.

9 Section 6-5. Highway projects under Act considered part of
10 State highway system. Each highway project constructed or
11 operated under this Act is considered to be part of:

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

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

20 Section 6-10. Service agreements. Any unit of local
21 government or State agency may enter into agreements with the
22 contractor for maintenance or other services under this Act.

23 Section 6-15. Cooperation with federal and local agencies.

1 The responsible public entity shall seek the cooperation of
2 federal and local agencies to expedite all necessary federal
3 and local permits, licenses, and approvals necessary for
4 projects under this Act.

5 Article 7. Taxation of Contractors

6 Section 7-1. Exemptions from property taxes. A project
7 under this Act and tangible personal property used exclusively
8 in connection with a project that are:

9 (a) owned by the responsible public entity and leased,
10 licensed, financed, or otherwise conveyed to a contractor;
11 or

12 (b) acquired, constructed, or otherwise provided by a
13 contractor on behalf of the responsible public entity;
14 under the terms of a public-private agreement are
15 considered to be public property devoted to an essential
16 public and governmental function and purpose. The property,
17 and a contractor's leasehold estate or interests in the
18 property, are exempt from all ad valorem property taxes and
19 special assessments levied against property by the State or
20 any political subdivision of the State.

21 Section 7-10. Exemptions from retail and use taxes. A
22 contractor or any other person purchasing tangible personal
23 property for incorporation into or improvement of a structure

1 or facility constituting or becoming part of the land included
2 in a project is entitled to the exemption from retail tax and
3 use tax provided under the Retailers' Occupation Tax Act and
4 Use Tax Act, respectively, with respect to that tangible
5 personal property.

6 Section 7-15. Taxation of income. Income received by a
7 contractor under the terms of a public-private agreement is
8 subject to taxation in the same manner as income received by
9 other private entities.

10 Article 8. Financial Arrangements

11 Section 8-1. Actions to obtain credit assistance. The
12 responsible public entity may do any combination of applying
13 for, executing, or endorsing applications submitted by private
14 entities to obtain federal, State, or local credit assistance
15 for qualifying projects developed, financed, or operated under
16 this Act, including loans, lines of credit, and guarantees.

17 Section 8-5. Actions to obtain assistance. The responsible
18 public entity may take any action to obtain federal, State, or
19 local assistance for a qualifying project that serves the
20 public purpose of this Act and may enter into any contracts
21 required to receive the federal assistance. The responsible
22 public entity may determine that it serves the public purpose

1 of this Act for all or any portion of the costs of a qualifying
2 project to be paid, directly or indirectly, from the proceeds
3 of a grant or loan, line of credit, or loan guarantee made by a
4 local, State, or federal government or any agency or
5 instrumentality of a local, State, or federal government. Such
6 assistance may include, but not be limited to, federal credit
7 assistance pursuant to the Transportation Infrastructure
8 Finance and Innovation Act and the Water Infrastructure and
9 Finance and Innovation Act.

10 Section 8-10. Grants or loans from amounts received from
11 governments. The responsible public entity may agree to make
12 grants or loans for the development, financing, or operation
13 of a qualifying project from time to time, from amounts
14 received from the federal, State, or local government or any
15 agency or instrumentality of the federal, State, or local
16 government.

17 Section 8-15. Terms and conditions of financing. Any
18 financing of a qualifying project may be in the amounts and
19 upon the terms and conditions that are determined by the
20 parties to the public-private agreement.

21 Section 8-20. General powers for the purpose of financing.
22 For the purpose of financing a qualifying project, the
23 contractor and the responsible public entity may do the

1 following:

2 (a) Propose to use any and all of the revenues that may
3 be available to them, including public or private pension
4 funds.

5 (b) Enter into grant agreements.

6 (c) Access any other funds available to the
7 responsible public entity, including public pension funds.

8 (d) Accept grants from the responsible public entity
9 or other public or private agency or entity.

10 Section 8-25. Debt financing powers.

11 (a) For the purpose of financing a qualifying project, the
12 responsible public entity may enter into agreements, leases,
13 or subleases with a contractor, and do the following:

14 (1) Issue bonds, debt, or other obligations.

15 (2) Enter into loan agreements or other credit
16 facilities.

17 (3) Secure any financing with a pledge of, security
18 interest in, or lien on all or part of a property subject
19 to the agreement, including all of the party's property
20 interests in the qualifying project.

21 (b) Any such debt shall mature at such time or times not
22 exceeding the earlier of the term of the public-private
23 agreement and the life of the qualifying project.

24 Section 8-30. Use of public funds for financing. For the

1 purpose of financing a qualifying project, public funds,
2 including public pension funds, may be used and mixed and
3 aggregated with funds provided by or on behalf of the
4 contractor or other private entities.

5 Section 8-35. Private activity bonds for purpose of
6 financing. For the purpose of financing a qualifying project,
7 a responsible public entity is authorized to do any
8 combination of applying for, executing, or endorsing
9 applications for an allocation of tax-exempt bond financing
10 authorization provided by the United States Internal Revenue
11 Code, as well as financing available under any other federal
12 law or program.

13 Section 8-40. Financing not to be considered debt of the
14 State or any political subdivision of the State. Any bonds,
15 debt, or other securities or other financing issued by or on
16 behalf of a contractor for the purposes of a project
17 undertaken under this Act shall not be deemed to constitute a
18 debt of the responsible public entity, the State, or any
19 political subdivision of the State or a pledge of the faith and
20 credit of the responsible public entity, the State, or any
21 political subdivision of the State.

22 Article 9. Issuance of Debt by Responsible Public Entity

1 Section 9-1. Sale of bonds or notes. A responsible public
2 entity may, by resolution, issue and sell bonds or notes of the
3 responsible public entity for the purpose of providing funds
4 to carry out this Act with respect to the development,
5 financing, or operation of a project or projects or the
6 refunding of any bonds or notes, together with any costs
7 associated with a transaction.

8 Section 9-5. Leases of projects. A responsible public
9 entity may enter into a lease with the contractor of a project
10 or projects financed under this Act. The responsible public
11 entity may lease a project financed under this Act to a
12 contractor under a public-private agreement.

13 Section 9-10. Payment of lease rentals. The responsible
14 public entity shall pay lease rentals for leases that the
15 responsible public entity has entered into under this Act that
16 secure bonds issued under this Article from any legally
17 available revenues, including:

- 18 (a) payments received from a contractor;
19 (b) federal highway revenues;
20 (c) distributions from the State highway fund; and
21 (d) other funds available to the responsible public
22 entity for such purpose.

23 Section 9-15. Properties of bonds or notes issued under

1 Article. The bonds or notes issued under this Article:

2 (a) constitute the corporate obligations of the
3 responsible public entity;

4 (b) do not constitute an indebtedness of the State
5 within the meaning or application of any constitutional
6 provision or limitation; and

7 (c) are payable solely as to both principal and
8 interest from:

9 (1) the revenues from a lease to the responsible
10 public entity, if any;

11 (2) proceeds of bonds or notes, if any;

12 (3) investment earnings on proceeds of bonds or
13 notes; or

14 (4) other funds available to the responsible
15 public entity for such purpose.

16 Article 10. Acquisition of Property

17 Section 10-1. General. The responsible public entity may
18 exercise any power of condemnation or eminent domain,
19 including quick-take powers, that it has under law, for the
20 purpose of acquiring any lands or estates or interests in land
21 for a qualifying project to the extent provided in the
22 public-private agreement or otherwise to the extent that the
23 responsible public entity finds that the action serves the
24 public purpose of this Act and deems it appropriate in the

1 exercise of its powers under this Act.

2 Section 10-5. Entering into grants of property interests.
3 The responsible public entity and a contractor may enter into
4 the leases, licenses, easements, and other grants of property
5 interests that the responsible public entity determines
6 necessary to carry out this Act.

7 Article 11. Law Enforcement

8 Section 11-1. Powers and jurisdiction within limits of
9 qualifying project.

10 (a) All law enforcement officers of the State and of each
11 affected jurisdiction have the same powers and jurisdiction
12 within the limits of the facility as they have in their
13 respective areas of jurisdiction.

14 (b) Law enforcement officers shall have access to the
15 facility at any time for the purpose of exercising the law
16 enforcement officers' powers and jurisdiction.

17 Section 11-5. Application of traffic and motor vehicle
18 laws; punishment for infractions.

19 (a) The traffic and motor vehicle laws of the State of
20 Illinois or, if applicable, any local jurisdiction shall be
21 the same as those applying to conduct on similar projects in
22 the State of Illinois or the local jurisdiction.

1 (b) Punishment for infractions and offenses shall be as
2 prescribed by law for conduct occurring on similar projects in
3 the State of Illinois or the local jurisdiction.

4 Article 12. Term of Agreement; Reversion of Property to State

5 Section 12-1. Maximum term of agreement. The term of a
6 public-private agreement, including all extensions, may not
7 exceed 99 years.

8 Section 12-5. Date of termination of contractor's
9 authority and duties. The responsible public entity shall
10 terminate the contractor's authority and duties under the
11 public-private agreement on the date set forth in the
12 public-private agreement.

13 Section 12-10. Duties and obligations upon termination of
14 agreement; dedication to responsible public entity. Upon
15 termination of the public-private agreement, the authority and
16 duties of the contractor under this Act cease, except for
17 those duties and obligations that extend beyond the
18 termination, as set forth in the public-private agreement, and
19 all interests in the facility shall revert to the responsible
20 public entity.

21 Article 13. Additional Powers of Responsible Public Entity

1 with Respect to Qualifying Projects

2 Section 13-1. Cooperation with governmental entities. Each
3 responsible public entity may exercise any powers provided
4 under this Act in participation or cooperation with any
5 governmental entity and enter into any contracts to facilitate
6 that participation or cooperation without compliance with any
7 other statute. Each responsible public entity shall cooperate
8 with each other and with other governmental entities in
9 carrying out qualifying projects under this Act.

10 Section 13-5. Contracts and agreements necessary to
11 performance of duties and execution of powers. Each
12 responsible public entity may make and enter into all
13 contracts and agreements necessary or incidental to the
14 performance of the responsible public entity's duties and the
15 execution of the responsible public entity's powers under this
16 Act. Except as otherwise required by law, these contracts or
17 agreements are not subject to any approvals other than the
18 approval of the responsible public entity and may be for any
19 term of years and contain any terms that are considered
20 reasonable by the responsible public entity.

21 Section 13-10. Payment of costs. A responsible public
22 entity may pay the costs incurred under a public-private
23 agreement entered into under this Act from any funds available

1 to the responsible public entity under this Act or any other
2 statute.

3 Section 13-15. Action that would impair agreement
4 prohibited. A responsible public entity or other State or
5 local government may not take any action that would impair a
6 public-private agreement entered into under this Act.

7 Section 13-20. Law enforcement assistance.

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

14 (b) Each responsible public entity is authorized to enter
15 into arrangements with the Illinois State Police related to
16 costs incurred in providing law enforcement assistance under
17 this Act.

18 Article 14. Prohibited Local Action

19 Section 14-1. Prohibited local action. A unit of local
20 government may not take any action that would have the effect
21 of impairing a public-private agreement under this Act, except
22 that this Section 14-1 shall not diminish any existing police

1 power or other power provided by law to a unit of local
2 government.

3 Article 15. Amendatory Changes

4 Section 15-5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be
9 exempt from inspection and copying:

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other
19 records prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

5 (e) Information the disclosure of which is exempted
6 under Section 30 of the Radon Industry Licensing Act.

7 (f) Firm performance evaluations under Section 55 of
8 the Architectural, Engineering, and Land Surveying
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted
11 and exempted under Section 50 of the Illinois Prepaid
12 Tuition Act.

13 (h) Information the disclosure of which is exempted
14 under the State Officials and Employees Ethics Act, and
15 records of any lawfully created State or local inspector
16 general's office that would be exempt if created or
17 obtained by an Executive Inspector General's office under
18 that Act.

19 (i) Information contained in a local emergency energy
20 plan submitted to a municipality in accordance with a
21 local emergency energy plan ordinance that is adopted
22 under Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by carriers
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law
2 enforcement agency or the Department of Transportation
3 under Section 11-212 of the Illinois Vehicle Code.

4 (l) Records and information provided to a residential
5 health care facility resident sexual assault and death
6 review team or the Executive Council under the Abuse
7 Prevention Review Team Act.

8 (m) Information provided to the predatory lending
9 database created pursuant to Article 3 of the Residential
10 Real Property Disclosure Act, except to the extent
11 authorized under that Article.

12 (n) Defense budgets and petitions for certification of
13 compensation and expenses for court appointed trial
14 counsel as provided under Sections 10 and 15 of the
15 Capital Crimes Litigation Act. This subsection (n) shall
16 apply until the conclusion of the trial of the case, even
17 if the prosecution chooses not to pursue the death penalty
18 prior to trial or sentencing.

19 (o) Information that is prohibited from being
20 disclosed under Section 4 of the Illinois Health and
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Regional Transportation Authority under Section 2.11 of
26 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety
2 Act.

3 (q) Information prohibited from being disclosed by the
4 Personnel Record Review Act.

5 (r) Information prohibited from being disclosed by the
6 Illinois School Student Records Act.

7 (s) Information the disclosure of which is restricted
8 under Section 5-108 of the Public Utilities Act.

9 (t) All identified or deidentified health information
10 in the form of health data or medical records contained
11 in, stored in, submitted to, transferred by, or released
12 from the Illinois Health Information Exchange, and
13 identified or deidentified health information in the form
14 of health data and medical records of the Illinois Health
15 Information Exchange in the possession of the Illinois
16 Health Information Exchange Office due to its
17 administration of the Illinois Health Information
18 Exchange. The terms "identified" and "deidentified" shall
19 be given the same meaning as in the Health Insurance
20 Portability and Accountability Act of 1996, Public Law
21 104-191, or any subsequent amendments thereto, and any
22 regulations promulgated thereunder.

23 (u) Records and information provided to an independent
24 team of experts under the Developmental Disability and
25 Mental Health Safety Act (also known as Brian's Law).

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under
2 the Firearm Owners Identification Card Act or applied for
3 or received a concealed carry license under the Firearm
4 Concealed Carry Act, unless otherwise authorized by the
5 Firearm Concealed Carry Act; and databases under the
6 Firearm Concealed Carry Act, records of the Concealed
7 Carry Licensing Review Board under the Firearm Concealed
8 Carry Act, and law enforcement agency objections under the
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is
11 exempted from disclosure under subsection (g) of Section
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure
14 under Section 5-1014.3 of the Counties Code or Section
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult
17 Protective Services Act and its predecessor enabling
18 statute, the Elder Abuse and Neglect Act, including
19 information about the identity and administrative finding
20 against any caregiver of a verified and substantiated
21 decision of abuse, neglect, or financial exploitation of
22 an eligible adult maintained in the Registry established
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality
25 review team or the Illinois Fatality Review Team Advisory
26 Council under Section 15 of the Adult Protective Services

1 Act.

2 (aa) Information which is exempted from disclosure
3 under Section 2.37 of the Wildlife Code.

4 (bb) Information which is or was prohibited from
5 disclosure by the Juvenile Court Act of 1987.

6 (cc) Recordings made under the Law Enforcement
7 Officer-Worn Body Camera Act, except to the extent
8 authorized under that Act.

9 (dd) Information that is prohibited from being
10 disclosed under Section 45 of the Condominium and Common
11 Interest Community Ombudsperson Act.

12 (ee) Information that is exempted from disclosure
13 under Section 30.1 of the Pharmacy Practice Act.

14 (ff) Information that is exempted from disclosure
15 under the Revised Uniform Unclaimed Property Act.

16 (gg) Information that is prohibited from being
17 disclosed under Section 7-603.5 of the Illinois Vehicle
18 Code.

19 (hh) Records that are exempt from disclosure under
20 Section 1A-16.7 of the Election Code.

21 (ii) Information which is exempted from disclosure
22 under Section 2505-800 of the Department of Revenue Law of
23 the Civil Administrative Code of Illinois.

24 (jj) Information and reports that are required to be
25 submitted to the Department of Labor by registering day
26 and temporary labor service agencies but are exempt from

1 disclosure under subsection (a-1) of Section 45 of the Day
2 and Temporary Labor Services Act.

3 (kk) Information prohibited from disclosure under the
4 Seizure and Forfeiture Reporting Act.

5 (ll) Information the disclosure of which is restricted
6 and exempted under Section 5-30.8 of the Illinois Public
7 Aid Code.

8 (mm) Records that are exempt from disclosure under
9 Section 4.2 of the Crime Victims Compensation Act.

10 (nn) Information that is exempt from disclosure under
11 Section 70 of the Higher Education Student Assistance Act.

12 (oo) Communications, notes, records, and reports
13 arising out of a peer support counseling session
14 prohibited from disclosure under the First Responders
15 Suicide Prevention Act.

16 (pp) Names and all identifying information relating to
17 an employee of an emergency services provider or law
18 enforcement agency under the First Responders Suicide
19 Prevention Act.

20 (qq) Information and records held by the Department of
21 Public Health and its authorized representatives collected
22 under the Reproductive Health Act.

23 (rr) Information that is exempt from disclosure under
24 the Cannabis Regulation and Tax Act.

25 (ss) Data reported by an employer to the Department of
26 Human Rights pursuant to Section 2-108 of the Illinois

1 Human Rights Act.

2 (tt) Recordings made under the Children's Advocacy
3 Center Act, except to the extent authorized under that
4 Act.

5 (uu) Information that is exempt from disclosure under
6 Section 50 of the Sexual Assault Evidence Submission Act.

7 (vv) Information that is exempt from disclosure under
8 subsections (f) and (j) of Section 5-36 of the Illinois
9 Public Aid Code.

10 (ww) Information that is exempt from disclosure under
11 Section 16.8 of the State Treasurer Act.

12 (xx) Information that is exempt from disclosure or
13 information that shall not be made public under the
14 Illinois Insurance Code.

15 (yy) Information prohibited from being disclosed under
16 the Illinois Educational Labor Relations Act.

17 (zz) Information prohibited from being disclosed under
18 the Illinois Public Labor Relations Act.

19 (aaa) Information prohibited from being disclosed
20 under Section 1-167 of the Illinois Pension Code.

21 (bbb) Information that is exempt from disclosure under
22 Section 4-30 of the Public-Private Partnerships Act.

23 (Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
24 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
25 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
26 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;

1 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff.
2 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221,
3 eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19;
4 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff.
5 1-1-20; 101-600, eff. 12-6-19; 101-620, eff 12-20-19; 101-649,
6 eff. 7-7-20.)