



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3186

Introduced 5/4/2006, by Sen. Peter J. Roskam - Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

- 30 ILCS 500/15-25
- 30 ILCS 500/35-5
- 605 ILCS 10/21.1 new
- 605 ILCS 10/21.2 new
- 605 ILCS 10/21.3 new
- 605 ILCS 10/21.4 new
- 605 ILCS 10/21.5 new
- 605 ILCS 10/21.6 new
- 605 ILCS 10/21.7 new
- 605 ILCS 10/21.8 new
- 605 ILCS 10/21.9 new
- 605 ILCS 10/21.10 new

Amends the Toll Highway Act. Provides that, if the Governor or the General Assembly authorizes the Illinois State Toll Highway Authority and a private entity to enter into a public-private agreement with respect to the planning, design, construction, or other specified aspects of a toll highway project, the agreement is subject to the requirements of the Illinois Procurement Code and to other specified requirements with regard to the maximum term of the agreement, a public hearing, use of the proceeds, and other matters. Provides that at least 66% of the proceeds that the State realizes from a public-private agreement entered into under the Act must go to the counties that are traversed by the toll highway system. Makes corresponding changes in the Illinois Procurement Code. Effective immediately.

LRB094 20528 DRH 58834 b

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 15-25 and 35-5 as follows:

6 (30 ILCS 500/15-25)

7 Sec. 15-25. Bulletin content.

8 (a) Invitations for bids. Notice of each and every contract
9 that is offered under this Code or Sections 21.1 through 21.10
10 of the Toll Highway Act, including renegotiated contracts and
11 change orders, shall be published in the Bulletin. The
12 applicable chief procurement officer may provide by rule an
13 organized format for the publication of this information, but
14 in any case it must include at least the date first offered,
15 the date submission of offers is due, the location that offers
16 are to be submitted to, the purchasing State agency, the
17 responsible State purchasing officer, a brief purchase
18 description, the method of source selection, and information of
19 how to obtain a comprehensive purchase description and any
20 disclosure and contract forms.

21 (b) Contracts let or awarded. Notice of each and every
22 contract that is let or awarded, including renegotiated
23 contracts and change orders, shall be published in the next
24 available subsequent Bulletin, and the applicable chief
25 procurement officer may provide by rule an organized format for
26 the publication of this information, but in any case it must
27 include at least all of the information specified in subsection
28 (a) as well as the name of the successful responsible bidder or
29 offeror, the contract price, the number of unsuccessful
30 responsive bidders, and any other disclosure specified in any
31 Section of this Code.

32 (c) Emergency purchase disclosure. Any chief procurement

1 officer, State purchasing officer, or designee exercising
2 emergency purchase authority under this Code shall publish a
3 written description and reasons and the total cost, if known,
4 or an estimate if unknown and the name of the responsible chief
5 procurement officer and State purchasing officer, and the
6 business or person contracted with for all emergency purchases
7 in the next timely, practicable Bulletin.

8 (d) Other required disclosure. The applicable chief
9 procurement officer shall provide by rule for the organized
10 publication of all other disclosure required in other Sections
11 of this Code and in Section 21.2 of the Toll Highway Act in a
12 timely manner.

13 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

14 (30 ILCS 500/35-5)

15 Sec. 35-5. Application.

16 (a) All professional and artistic services shall be
17 procured in accordance with the provisions of this Article.

18 (b) Any lease awarded under Sections 21.1 through 21.10 of
19 the Toll Highway Act shall comply with this Article.

20 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

21 Section 10. The Toll Highway Act is amended by adding
22 Sections 21.1, 21.2, 21.3, 21.4. 21.5, 21.6, 21.7, 21.8, 21.9,
23 and 21.10 as follows:

24 (605 ILCS 10/21.1 new)

25 Sec. 21.1. Requirements for entering into public-private
26 agreements.

27 (a) If a public-private agreement with respect to a toll
28 highway project is authorized by either the Governor or the
29 General Assembly, then the requirements of this Section and
30 Sections 21.2 through Section 21.10 must be met.

31 (b) Subject to this Section and Sections 21.2 through
32 Section 21.10, a public-private agreement may provide that the
33 private entity is partially or entirely responsible for any

1 combination of the following activities with respect to the
2 project:

- 3 (1) planning;
4 (2) design;
5 (3) acquisition;
6 (4) construction;
7 (5) reconstruction;
8 (6) improvement;
9 (7) extension;
10 (8) expansion;
11 (9) operation;
12 (10) repair;
13 (11) management;
14 (12) maintenance; or
15 (13) financing.

16 (605 ILCS 10/21.2 new)

17 Sec. 21.2. Compliance with Illinois Procurement Code.

18 (a) A lease awarded under Sections 21.1 through 21.10 shall
19 comply in all respects with the Illinois Procurement Code,
20 treating the lease as a professional and artistic services
21 contract under Article 35 of the Illinois Procurement Code.

22 (b) All contracts, including but not limited to
23 construction contracts and professional services contracts
24 entered into by any entity leasing any portion of the toll
25 highway system, shall be publicly disclosed through the online
26 publication of contract award notices substantially as
27 required by Section 15-25 of the Illinois Procurement Code.
28 These notices shall be posted on the lessee's website and the
29 Procurement Bulletin. In addition to the notice of award
30 requirements of Section 15-25 of the Illinois Procurement Code,
31 these notices of the lessee's contracts shall include as part
32 of the notice posted online the names disclosed by the entity
33 with whom the lessee is contracting pursuant to subsection (c)
34 of this Section. In addition to the notice of award
35 requirements of Section 15-25 of the Illinois Procurement Code,

1 the notices of a lease award and all other Authority contracts
2 relating to the lease or procurement (including but not limited
3 to contracts for financial and legal advisors) published in the
4 Procurement Bulletin pursuant to Section 15-25 of the Illinois
5 Procurement Code shall include as part of the notice posted
6 online the names disclosed by the winning bidder or offeror
7 pursuant to subsection (c).

8 (c) Definitions. For purposes of this subsection:

9 "Contracting entity" means an entity that would execute a
10 contract with the Authority relating to the lease of any
11 portion of the toll highway system and an entity that would
12 execute a contract with the lessee of any portion of the toll
13 highway system.

14 "Key persons" means any persons who: (i) have an ownership
15 or distributive income share in the contracting entity that is
16 in excess of 5%, or any amount greater than 60% of the annual
17 salary of the Governor; (ii) serve as executive officers of the
18 contracting entity; (iii) are employed by the contracting
19 entity who are required to register under the Lobbyist
20 Registration Act; (iv) are individuals or entities with whom
21 the contracting entity is contracting who are required to be
22 registered as lobbyists under the Lobbyist Registration Act;
23 and (v) are employed by the contracting entity who are special
24 government agents as defined in subsection (1) of Section
25 4A-101 of the Illinois Governmental Ethics Act.

26 For contracts with an annual value of \$50,000 more, all
27 offers from responsive bidders or offerors or entities
28 executing contracts with the lessee shall be accompanied by
29 disclosure of the names of the following:

30 (1) the contracting entity;

31 (2) any entity that is a parent of, or owns a
32 controlling interest in, the contracting entity;

33 (3) any entity that is a subsidiary of, or in which a
34 controlling interest is owned by the contracting entity;

35 (4) any subcontractor that will be contracting with the
36 contracting entity;

1 (5) any State, local, or federal political committee
2 that makes or may make political contributions on behalf of
3 or at the direction of the contracting entity; and

4 (6) the key persons of the contracting entity and any
5 subcontractor.

6 (605 ILCS 10/21.3 new)

7 Sec. 21.3. Lease term; use of lease proceeds.

8 (a) Any lease awarded under Sections 21.1 through 21.10
9 shall provide for payments to the State on an annual basis,
10 with substantially level payments, for a term not to exceed 20
11 years.

12 (b) All proceeds of any lease awarded, in excess of
13 proceeds applied as set forth in Section 21.10, shall be used
14 by the State, as promptly as practicable, as follows:

15 (1) to retire in advance of maturity a portion of the
16 State's outstanding general obligation or Build Illinois
17 bond debt, provided that the retirement of debt, through an
18 advance refunding or otherwise, shall reduce all future
19 State bond payments by substantially equal amounts each
20 year that any general obligation or Build Illinois bond
21 debt is outstanding; or

22 (2) to make contributions to the following designated
23 retirement systems, which shall be in addition to, and not
24 in lieu of, any State contributions required under Section
25 2-124, 14-131, 15-155, 16-158, or 18-131 of the Illinois
26 Pension Code. The designated retirement systems are the
27 State Employees' Retirement System of Illinois, the
28 Teachers' Retirement System of the State of Illinois, the
29 State Universities Retirement System, the Judges
30 Retirement System of Illinois, and the General Assembly
31 Retirement System. No changes shall be made to the
32 statutory funding formulas of these systems in connection
33 with these additional contributions.

34 (605 ILCS 10/21.4 new)

1 Sec. 21.4. Public hearing required.

2 (a) No lease may be awarded under Sections 21.1 through
3 21.10 of this Act until after the completion of a public
4 hearing.

5 (b) Before it enters into a lease agreement, the Authority
6 shall hold a public hearing at which any person may appear,
7 express opinions, suggestions, or objections, or direct
8 inquiries relating to the lease agreement. Any person may
9 submit a written statement to the Authority at the hearing,
10 whether appearing in person or not. The hearing shall be held
11 in the county in which the roadway to which the proposed lease
12 agreement applies is located. The Authority shall give notice
13 of the hearing by advertisement on 3 successive days at least
14 15 days prior to the date of the hearing in a daily newspaper
15 of general circulation within the county within which the
16 hearing is held. The notice shall state the date, time, and
17 place of the hearing, shall contain a description of the
18 proposed lease agreement, and shall specify how interested
19 persons may obtain copies of any reports, resolutions, or
20 certificates describing the basis for the lease agreement.
21 After consideration of any statements filed or oral opinions,
22 suggestions, objections, or inquiries made at the hearing, the
23 Authority may proceed to enter into the lease agreement. No
24 lease agreement shall be effective unless at least 30 days
25 prior to the effective date of the lease agreement notice
26 thereof shall be given to the public by publication in a
27 newspaper of general circulation, and such notice, or notices,
28 thereof shall be posted and publicly displayed at each and
29 every toll station upon or along said toll highways.

30 (c) At the public hearing, the Authority shall provide
31 details on the terms of the proposed lease. The proposed lease
32 shall be available for public inspection and copying at the
33 principal office of the Authority during regular business hours
34 at least 60 days before the public hearing.

35 (d) Also at the public hearing, the expected fiscal impact
36 of the project, as determined by (i) the Commission on

1 Government Forecasting and Accountability and (ii) either the
2 Illinois Department of Transportation or the Illinois State
3 Toll Highway Authority, shall be disclosed.

4 (605 ILCS 10/21.5 new)

5 Sec. 21.5. No additional user fees. The driver of a vehicle
6 may not be charged any fee, in addition to the amount normally
7 charged as toll, for use of any portion of the toll highway
8 system that is the subject of a public-private agreement. A
9 motorist who presents a device indicating that he or she has
10 paid a predetermined amount for use of the toll highways of
11 this State may not be charged any additional fee for use of any
12 portion of the toll highway system that is the subject of a
13 public-private agreement.

14 (605 ILCS 10/21.6 new)

15 Sec. 21.6. Completion of projects planned by the Authority.
16 Any public-private agreement entered into by the Authority
17 under this Act shall provide that the private contractor must
18 complete any reconstruction or expansion previously planned by
19 the Authority within the time period contemplated by the
20 Authority.

21 (605 ILCS 10/21.7 new)

22 Sec. 21.7. Repair and maintenance of toll highways by a
23 private contractor. A private contractor who has entered into a
24 public-private agreement with the Authority under this Act
25 shall properly repair and maintain the portion of the toll
26 highway system that is subject to the agreement. Compliance
27 with this Section shall be determined through annual inspection
28 of the roadway by the Illinois Department of Transportation.

29 (605 ILCS 10/21.8 new)

30 Sec. 21.8. Compliance with the Business Enterprise for
31 Minorities, Females, and Persons with Disabilities Act. Any
32 private contractor or subcontractor engaged in the

1 construction of a project that is the subject of a
2 public-private agreement entered into under this Act must
3 comply with the requirements of the Business Enterprise for
4 Minorities, Females, and Persons with Disabilities Act.

5 (605 ILCS 10/21.9 new)

6 Sec. 21.9. Political contributions prohibited.

7 (a) A person who has entered into a public-private
8 agreement under this Act may not make a contribution to any
9 candidate for State office, legislative office, or local
10 office, or to a committee for the benefit of such a candidate,
11 during the following periods:

12 (1) the term during which the person is a party to a
13 public-private agreement entered into under this Act; and

14 (2) the 3 years after the final expiration or
15 termination of the public-private agreement described in
16 paragraph (1) of this subsection (a).

17 (b) Subsection (a) also applies to any person who holds an
18 interest of 1% or more in an entity that has entered into a
19 public-private agreement under this Act.

20 (605 ILCS 10/21.10 new)

21 Sec. 21.10. Proceeds of the agreement; benefit to affected
22 counties. At least 66% of the proceeds realized by the State
23 from a public-private agreement entered into under this Act
24 shall be distributed to the counties that are traversed by the
25 toll highway system.

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.