



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 108

2 AMENDMENT NO. _____. Amend Senate Bill 108 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Public policy and legislative intent.

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

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

14 (c) Authorizing the Department and the Authority to enter
15 into public-private partnerships, whereby private entities may
16 develop, operate, and finance transportation facilities, has

1 the potential to promote the development of transportation
2 facilities in the State as well as investment in the State.

3 (d) It is the intent of this Act to promote public-private
4 partnerships for transportation by authorizing the Department
5 and the Authority to enter into public-private agreements for
6 the development, operation, and financing of transportation
7 facilities.

8 Section 10. Definitions. As used in this Act:

9 "Authority" means the Illinois State Toll Highway
10 Authority.

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

14 "Department" means the Illinois Department of
15 Transportation.

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

19 "Maintain" or "maintenance" includes ordinary maintenance,
20 repair, rehabilitation, capital maintenance, maintenance
21 replacement, and any other categories of maintenance that may
22 be designated by the transportation agency.

23 "Offeror" means a private entity that has submitted a
24 proposal for a public-private agreement under this Act.

25 "Operate" or "operation" means to do one or more of the

1 following: maintain, improve, equip, modify, or otherwise
2 operate.

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

13 "Public-private agreement" means the public-private
14 agreement between the contractor and the transportation agency
15 relating to one or more of the development, financing, or
16 operation of a transportation project that is entered into
17 under this Act.

18 "Request for proposals" means all materials and documents
19 prepared by or on behalf of the transportation agency to
20 solicit proposals from offerors to enter into a public-private
21 agreement.

22 "Request for qualifications" means all materials and
23 documents prepared by or on behalf of the transportation agency
24 to solicit qualification submittals from offerors to enter into
25 a public-private agreement.

26 "Revenues" means all revenues, including any combination

1 of: income; earnings and interest; user fees; lease payments;
2 allocations; federal, State, and local appropriations, grants,
3 loans, lines of credit, and credit guarantees; bond proceeds;
4 equity investments; service payments; or other receipts;
5 arising out of or in connection with a transportation project,
6 including the development, financing, and operation of a
7 transportation project. The term includes money received as
8 grants, loans, lines of credit, credit guarantees, or otherwise
9 in aid of a transportation project from the federal government,
10 the State, a unit of local government, or any agency or
11 instrumentality of the federal government, the State, or a unit
12 of local government.

13 "Transportation agency" means the Department or the
14 Authority.

15 "Transportation project" or "project" means a project
16 undertaken under this Act with respect to all or a portion of
17 any new or existing road, highway, toll highway, bridge,
18 tunnel, intermodal facility, or other transportation facility
19 or infrastructure under the jurisdiction of the transportation
20 agency; a transportation project may not, however, include an
21 airport located within a county with a population of more than
22 500,000.

23 "User fees" or "tolls" means the rates, tolls, fees, or
24 other charges imposed by the contractor for use of all or a
25 portion of a transportation project under a public-private
26 agreement.

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

3 (a) Each transportation agency may exercise the powers
4 granted by this Act to do some or all of develop, finance, and
5 operate any part of one or more transportation projects through
6 public-private agreements with one or more private entities.
7 Each transportation agency may use the revenues arising out of
8 one transportation project or public-private agreement and use
9 them for some or all of developing, financing, and operating
10 any part of one or more additional or other transportation
11 projects through public-private agreements with one or more
12 private entities or as otherwise deemed appropriate by the
13 transportation agency.

14 (b) A contractor has:

15 (1) all powers allowed by law generally to a private
16 entity having the same form of organization as the
17 contractor; and

18 (2) the power to develop, finance, and operate the
19 transportation project and to impose user fees in
20 connection with the use of the transportation project,
21 subject to the terms of the public-private agreement.

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

24 (c) Each year, at least 30 days prior to the beginning of
25 the transportation agency's fiscal year, and at other times the

1 transportation agency deems necessary, the transportation
2 agency shall submit for review, to the President of the Senate,
3 the Speaker of the House of Representatives, the Minority
4 Leader of the Senate, and the Minority Leader of the House of
5 Representatives, a description of potential projects that the
6 transportation agency is considering undertaking under this
7 Act. The transportation agency may undertake any potential
8 project regarding which it has submitted a description unless,
9 within 60 days of their receipt of the description of the
10 potential project, the transportation agency receives notice
11 to the contrary from the President of the Senate, the Speaker
12 of the House of Representatives, the Minority Leader of the
13 Senate, and the Minority Leader of the House of
14 Representatives.

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

22 (e) Any project undertaken under this Act shall be subject
23 to all applicable planning requirements otherwise required by
24 law, including land use planning, regional planning,
25 transportation planning, and environmental compliance
26 requirements.

1 (f) Any new transportation facility developed as a project
2 under this Act must be consistent with the metropolitan
3 planning organization's regional plan then in existence with
4 respect to each project located within a metropolitan planning
5 organization's boundaries.

6 Section 20. Procurement process.

7 (a) The transportation agency may request proposals from
8 private entities for some or all of the development, financing,
9 and operation of one or more transportation projects.

10 (b) The transportation agency may pursue a competitive
11 proposal process using a request for qualifications and a
12 request for proposals process or proceed directly to a request
13 for proposals.

14 (c) If the transportation agency elects to utilize a
15 request for qualifications phase, it shall provide a public
16 notice of the request for qualifications for such period as
17 deemed appropriate or warranted by the transportation agency
18 and shall set forth requirements and evaluation criteria in the
19 request for qualifications. Upon receipt of qualifications,
20 the transportation agency shall choose which parties that have
21 submitted qualifications, if any, meet the requirements and
22 evaluation criteria in the request for qualifications and shall
23 issue requests for proposals only to those parties.

24 (d) If the transportation agency has not issued a request
25 for qualification under this Section and intends to use only a

1 request for proposals procurement, the transportation agency
2 shall provide a public notice of the request for proposals for
3 a period deemed appropriate or warranted by the transportation
4 agency.

5 (e) A request for proposals shall:

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

8 (2) contain or incorporate by reference the
9 specifications and contractual terms and conditions
10 applicable to the procurement and the transportation
11 project;

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

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

16 (5) contain or incorporate by reference any other
17 provisions, materials, or documents the transportation
18 agency deems appropriate.

19 (f) The transportation agency shall determine the
20 evaluation criteria that are most appropriate for each
21 transportation project and shall set forth those criteria in
22 the request for proposals. The transportation agency may use

23 (i) a selection process that results in selection of the
24 proposal offering the best value to the public, (ii) a
25 selection process that results in selection of the proposal
26 offering the lowest price or cost or the highest payment to, or

1 revenue sharing with, the transportation agency, (iii) a
2 selection process that results in the imposition of tolls for
3 the shortest period, or (iv) any other selection process that
4 the transportation agency determines is in the best interests
5 of the State and the public.

6 (g) After the procedures required in this Act have been
7 completed, the transportation agency shall make a
8 determination as to whether the successful offeror should be
9 designated as the contractor for the transportation project.

10 (h) After designating the successful offeror as the
11 contractor for the project, the transportation agency shall
12 execute the public-private agreement and publish notice of the
13 execution of the public-private agreement.

14 (i) Any action to contest the validity of a public-private
15 agreement entered into under this Act must be brought no later
16 than 30 days after the date of publication of the notice of
17 execution of the public-private agreement.

18 (j) In addition to any other rights under this Act, in
19 connection with any procurement under this Act, the following
20 rights are reserved to each transportation agency:

21 (1) to withdraw a request for qualifications or a
22 request for proposals at any time. The transportation
23 agency may then publish a new request for qualifications or
24 request for proposals;

25 (2) to not award a public-private agreement for any
26 reason;

1 (3) to request clarifications to any qualification
2 submittal or request for proposals, to seek one or more
3 revised proposals or one or more best and final offers, or
4 to conduct negotiations with one or more offerors;

5 (4) to modify, during the pendency of a procurement,
6 the terms, provisions, and conditions of a request for
7 qualification or request for proposals or the technical
8 specifications or form of a public-private agreement;

9 (5) to interview offerors; and

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

12 Section 25. Public-private agreements.

13 (a) Before developing, financing, or operating the
14 transportation project, the contractor shall enter into a
15 public-private agreement with the transportation agency.
16 Subject to the other provisions of this Act, the transportation
17 agency and a private entity may enter into a public-private
18 agreement with respect to a project. Subject to the
19 requirements of this Act, a public-private agreement may
20 provide that the private entity, acting on behalf of the
21 transportation agency, is partially or entirely responsible
22 for any combination of developing, financing, or operating the
23 transportation project under terms set forth in the
24 public-private agreement.

25 (b) The public-private agreement may, as determined

1 appropriate by the transportation agency for the particular
2 transportation project, provide for some or all of the
3 following:

4 (1) Construction of the transportation project under
5 terms set forth in the public-private agreement, which may
6 include design-build construction.

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

24 (3) Review of plans for any development or operation,
25 or both, of the transportation project by the
26 transportation agency.

1 (4) Inspection of any construction of or improvements
2 to the transportation project by the transportation agency
3 or another entity designated by the transportation agency
4 or under the public-private agreement to ensure that the
5 construction or improvements conform to the standards set
6 forth in the public-private agreement or are otherwise
7 acceptable to the transportation agency.

8 (5) Maintenance of:

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

13 (B) self-insurance;

14 each in form and amount as set forth in the public-private
15 agreement or otherwise satisfactory to the transportation
16 agency as reasonably sufficient to insure coverage of tort
17 liability to the public and employees and to enable the
18 continued operation of the transportation project.

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

1 (7) Reimbursement to be paid to the transportation
2 agency as set forth in the public-private agreement for
3 services provided by the transportation agency.

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

8 (9) Compensation or payments to the contractor.
9 Compensation or payments may include any or a combination
10 of the following:

11 (A) a base fee and additional fee for project
12 savings as the design-builder of a construction
13 project;

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

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

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

23 (E) a maximum rate of return on investment or
24 return on equity or a combination of the 2;

25 (F) in-kind services, materials, property,
26 equipment, or other items;

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

2 or

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (d) A public-private agreement may:

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

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

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

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

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

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

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

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

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

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

9 (1) develop, finance, or operate the project; or

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

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

16 (1) make payments to individuals or entities in
17 connection with any financing of the transportation
18 project;

19 (2) pay development costs of the project;

20 (3) pay current operation costs of the project or
21 facilities;

22 (4) pay the contractor for any compensation or payment
23 owing upon termination; and

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

1 (i) The full faith and credit of the State or any political
2 subdivision of the State or the transportation agency is not
3 pledged to secure any financing of the contractor by the
4 election to take over the transportation project. Assumption of
5 development or operation, or both, of the transportation
6 project does not obligate the State or any political
7 subdivision of the State or the transportation agency to pay
8 any obligation of the contractor.

9 (j) Notwithstanding any other provision of this Act, the
10 transportation agency may enter into a public-private
11 agreement with multiple private entities if the transportation
12 agency determines in writing that it is in the public interest
13 to do so.

14 Section 30. Development and operations standards for
15 transportation projects.

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

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

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

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

24 (1) the State highway system for purposes of
25 identification, maintenance standards, and enforcement of

1 traffic laws if the highway project is under the
2 jurisdiction of the Department; or

3 (2) the toll highway system for purposes of
4 identification, maintenance standards, and enforcement of
5 traffic laws if the highway project is under the
6 jurisdiction of the Authority.

7 (c) Any local or State agency may enter into agreements
8 with the contractor for maintenance or other services under
9 this Act.

10 Section 35. Financial arrangements.

11 (a) The transportation agency may do any combination of
12 applying for, executing, or endorsing applications submitted
13 by private entities to obtain federal, State, or local credit
14 assistance for transportation projects developed, financed, or
15 operated under this Act, including loans, lines of credit, and
16 guarantees.

17 (b) The transportation agency may take any action to obtain
18 federal, State, or local assistance for a transportation
19 project that serves the public purpose of this Act and may
20 enter into any contracts required to receive the federal
21 assistance. The transportation agency may determine that it
22 serves the public purpose of this Act for all or any portion of
23 the costs of a transportation project to be paid, directly or
24 indirectly, from the proceeds of a grant or loan, line of
25 credit, or loan guarantee made by a local, State, or federal

1 government or any agency or instrumentality of a local, State,
2 or federal government.

3 (c) The transportation agency may agree to make grants or
4 loans for the development, financing, or operation of a
5 transportation project from time to time, from amounts received
6 from the federal, State, or local government or any agency or
7 instrumentality of the federal, State, or local government.

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

11 (e) For the purpose of financing a transportation project,
12 the contractor and the transportation agency may do the
13 following:

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

16 (2) enter into grant agreements;

17 (3) access any other funds available to the
18 transportation agency; and

19 (4) accept grants from the transportation agency or
20 other public or private agency or entity.

21 (f) For the purpose of financing a transportation project,
22 public funds may be used and mixed and aggregated with funds
23 provided by or on behalf of the contractor or other private
24 entities.

25 (g) For the purpose of financing a transportation project,
26 each transportation agency is authorized to apply for an

1 allocation of tax-exempt bond financing authorization provided
2 by Section 11143 of the Federal Safe, Accountable, Flexible,
3 Efficient Transportation Equity Act: A Legacy for Users
4 (SAFETEA-LU), Public Law 109-59, as well as financing available
5 under any other federal law or program.

6 (h) Any bonds, debt, or other securities or other financing
7 issued for the purposes of this Act shall not be deemed to
8 constitute a debt of the State or any political subdivision of
9 the State or a pledge of the faith and credit of the State or
10 any political subdivision of the State.

11 Section 40. Acquisition of property.

12 (a) The transportation agency may exercise any power of
13 condemnation that it has under law for the purpose of acquiring
14 any lands or estates or interests in land for a transportation
15 project to the extent provided in the public-private agreement
16 or otherwise to the extent that the transportation agency finds
17 that the action serves the public purpose of this Act.

18 (b) The transportation agency and a contractor may enter
19 into the leases, licenses, easements, and other grants of
20 property interests that the transportation agency determines
21 necessary to carry out this Act.

22 Section 45. Labor; law enforcement.

23 (a) A public-private agreement related to a transportation
24 project pertaining to an existing transportation facility

1 shall require the contractor to assume all existing collective
2 bargaining agreement obligations related to employees of the
3 transportation agency employed in relation to that facility.

4 (b) A public-private agreement related to a transportation
5 project pertaining to a new transportation facility shall
6 require the contractor to enter into a project labor agreement
7 that must include provisions establishing the minimum hourly
8 wage, benefits, and other compensation for each class of labor
9 organization employee and such other terms as are negotiated
10 between the contractor and the labor organizations.

11 (c) All law enforcement officers of the State and of each
12 affected local jurisdiction have the same powers and
13 jurisdiction within the limits of the transportation project as
14 they have in their respective areas of jurisdiction.

15 (d) Law enforcement officers shall have access to the
16 transportation project at any time for the purpose of
17 exercising the law enforcement officers' powers and
18 jurisdiction.

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

23 (f) Punishment for infractions and offenses shall be as
24 prescribed by law for conduct occurring on similar projects in
25 the State of Illinois or the local jurisdiction.

1 Section 50. Term of agreement; reversion of property to
2 transportation agency.

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

5 (b) The transportation agency shall terminate the
6 contractor's authority and duties under the public-private
7 agreement on the date set forth in the public-private
8 agreement.

9 (c) Upon termination of the public-private agreement, the
10 authority and duties of the contractor under this Act cease,
11 except for those duties and obligations that extend beyond the
12 termination, as set forth in the public-private agreement, and
13 the transportation project shall revert to the transportation
14 agency.

15 Section 55. Additional powers of transportation agencies
16 with respect to transportation projects.

17 (a) Each transportation agency may exercise any powers
18 provided under this Act in participation or cooperation with
19 any governmental entity and enter into any contracts to
20 facilitate that participation or cooperation without
21 compliance with any other statute.

22 (b) Each transportation agency may make and enter into all
23 contracts and agreements necessary or incidental to the
24 performance of the transportation agency's duties and the
25 execution of the transportation agency's powers under this Act.

1 Except as otherwise required by law, these contracts or
2 agreements are not subject to any approvals other than the
3 approval of the transportation agency and may be for any term
4 of years and contain any terms that are considered reasonable
5 by the transportation agency.

6 (c) Each transportation agency may pay the costs incurred
7 under a public-private agreement entered into under this Act
8 from any funds available to the transportation agency under
9 this Act or any other statute.

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

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

19 (f) Each transportation agency is authorized to enter into
20 arrangements with the Department of State Police related to
21 costs incurred in providing law enforcement assistance under
22 this Act.

23 Section 60. Prohibited local action. A unit of local
24 government may not take any action that would have the effect
25 of impairing a public-private agreement under this Act.

1 Section 65. Powers liberally construed. The powers
2 conferred by this Act shall be liberally construed in order to
3 accomplish their purposes and shall be in addition and
4 supplemental to the powers conferred by any other law. If any
5 other law or rule is inconsistent with this Act, this Act is
6 controlling as to any public-private agreement entered into
7 under this Act.

8 Section 70. Full and complete authority. This Act contains
9 full and complete authority for agreements and leases with
10 private entities to carry out the activities described in this
11 Act. Except as otherwise required by law, no procedure,
12 proceedings, publications, notices, consents, approvals,
13 orders, or acts by the transportation agency or any other State
14 or local agency or official are required to enter into an
15 agreement or lease.

16 Section 905. The Department of Transportation Law of the
17 Civil Administrative Code of Illinois is amended by adding
18 Section 2705-220 as follows:

19 (20 ILCS 2705/2705-220 new)

20 Sec. 2705-220. Public-private partnerships for
21 transportation. The Department may exercise all powers granted
22 to it under the Public-Private Partnerships for Transportation

1 Act.

2 Section 910. The Illinois Finance Authority Act is amended
3 by adding Section 825-100 as follows:

4 (20 ILCS 3501/825-100 new)

5 Sec. 825-100. Transportation project financing. For the
6 purpose of financing a transportation project undertaken under
7 the Public-Private Partnerships for Transportation Act, the
8 Authority is authorized to apply for an allocation of
9 tax-exempt bond financing authorization provided by Section
10 11143 of the Federal Safe, Accountable, Flexible, Efficient
11 Transportation Equity Act: A Legacy for Users (SAFETEA-LU),
12 Public Law 109-59, as well as financing available under any
13 other federal law or program.

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

16 (30 ILCS 500/1-10)

17 Sec. 1-10. Application.

18 (a) This Code applies only to procurements for which
19 contractors were first solicited on or after July 1, 1998. This
20 Code shall not be construed to affect or impair any contract,
21 or any provision of a contract, entered into based on a
22 solicitation prior to the implementation date of this Code as

1 described in Article 99, including but not limited to any
2 covenant entered into with respect to any revenue bonds or
3 similar instruments. All procurements for which contracts are
4 solicited between the effective date of Articles 50 and 99 and
5 July 1, 1998 shall be substantially in accordance with this
6 Code and its intent.

7 (b) This Code shall apply regardless of the source of the
8 funds with which the contracts are paid, including federal
9 assistance moneys. This Code shall not apply to:

10 (1) Contracts between the State and its political
11 subdivisions or other governments, or between State
12 governmental bodies except as specifically provided in
13 this Code.

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

16 (3) Purchase of care.

17 (4) Hiring of an individual as employee and not as an
18 independent contractor, whether pursuant to an employment
19 code or policy or by contract directly with that
20 individual.

21 (5) Collective bargaining contracts.

22 (6) Purchase of real estate, except that notice of this
23 type of contract with a value of more than \$25,000 must be
24 published in the Procurement Bulletin within 7 days after
25 the deed is recorded in the county of jurisdiction. The
26 notice shall identify the real estate purchased, the names

1 of all parties to the contract, the value of the contract,
2 and the effective date of the contract.

3 (7) Contracts necessary to prepare for anticipated
4 litigation, enforcement actions, or investigations,
5 provided that the chief legal counsel to the Governor shall
6 give his or her prior approval when the procuring agency is
7 one subject to the jurisdiction of the Governor, and
8 provided that the chief legal counsel of any other
9 procuring entity subject to this Code shall give his or her
10 prior approval when the procuring entity is not one subject
11 to the jurisdiction of the Governor.

12 (8) Contracts for services to Northern Illinois
13 University by a person, acting as an independent
14 contractor, who is qualified by education, experience, and
15 technical ability and is selected by negotiation for the
16 purpose of providing non-credit educational service
17 activities or products by means of specialized programs
18 offered by the university.

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

21 (10) Public-private agreements entered into according
22 to the procurement requirements of Section 20 of the
23 Public-Private Partnerships for Transportation Act.

24 (c) This Code does not apply to the electric power
25 procurement process provided for under Section 1-75 of the
26 Illinois Power Agency Act and Section 16-111.5 of the Public

1 Utilities Act.

2 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
3 95-876, eff. 8-21-08.)

4 Section 920. The Public Construction Bond Act is amended by
5 adding Section 1.5 as follows:

6 (30 ILCS 550/1.5 new)

7 Sec. 1.5. Public-private agreements. This Act applies to
8 any public-private agreement entered into under the
9 Public-Private Partnerships for Transportation Act or Article
10 II-A of the Regional Transportation Authority Act.

11 Section 925. The Public Works Preference Act is amended by
12 adding Section 4.5 as follows:

13 (30 ILCS 560/4.5 new)

14 Sec. 4.5. Public-private agreements. This Act applies to
15 any public-private agreement entered into under the
16 Public-Private Partnerships for Transportation Act or Article
17 II-A of the Regional Transportation Authority Act.

18 Section 930. The Employment of Illinois Workers on Public
19 Works Act is amended by adding Section 2.5 as follows:

20 (30 ILCS 570/2.5 new)

1 Sec. 2.5. Public-private agreements. This Act applies to
2 any public-private agreement entered into under the
3 Public-Private Partnerships for Transportation Act or Article
4 II-A of the Regional Transportation Authority Act.

5 Section 935. The Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Act is amended by adding
7 Section 2.5 as follows:

8 (30 ILCS 575/2.5 new)

9 Sec. 2.5. Public-private agreements. This Act applies to
10 any public-private agreement entered into under the
11 Public-Private Partnerships for Transportation Act.

12 Section 940. The Retailers' Occupation Tax Act is amended
13 by adding Section 1q as follows:

14 (35 ILCS 120/1q new)

15 Sec. 1q. Building materials exemption; public-private
16 partnership transportation projects.

17 (a) Each retailer that makes a qualified sale of building
18 materials to be incorporated into a "project" as defined in the
19 Public-Private Partnerships for Transportation Act or Article
20 II-A of the Regional Transportation Authority Act, by
21 remodeling, rehabilitating, or new construction, may deduct
22 receipts from those sales when calculating the tax imposed by

1 this Act.

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

7 (c) To document the exemption allowed under this Section,
8 the retailer must obtain from the purchaser a copy of the
9 Certificate of Eligibility for Sales Tax Exemption issued by
10 the agency having jurisdiction over the project into which the
11 building materials will be incorporated is located. The
12 Certificate of Eligibility for Sales Tax Exemption must contain
13 all of the following:

14 (1) a statement that the project identified in the
15 Certificate meets all the requirements of the agency having
16 authority over the project;

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

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

20 (d) In addition to meeting the requirements of subsection
21 (c), the retailer must obtain a certificate from the purchaser
22 that contains all of the following:

23 (1) a statement that the building materials are being
24 purchased for incorporation into a project in accordance
25 with the Public-Private Partnerships for Transportation
26 Act;

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

3 (3) the name of the project;

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

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

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

8 Section 945. The Property Tax Code is amended by changing
9 Sections 15-55 and 15-100 as follows:

10 (35 ILCS 200/15-55)

11 Sec. 15-55. State property.

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

20 The leased property shall be assessed to the lessee and the
21 taxes thereon extended and billed to the lessee, and collected
22 in the same manner as for property which is not exempt. The
23 lessee shall be liable for the taxes and no lien shall attach
24 to the property of the State.

1 For the purposes of this Section, the word "leases"
2 includes licenses, franchises, operating agreements and other
3 arrangements under which private individuals, associations or
4 corporations are granted the right to use property of the
5 Illinois State Toll Highway Authority and includes all property
6 of the Authority used by others without regard to the size of
7 the leased parcel.

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

13 (1) conservation, nature trail or any other
14 charitable, scientific, educational or recreational
15 purposes with public benefit, including the preserving and
16 aiding in the preservation of natural areas, objects,
17 flora, fauna or biotic communities;

18 (2) the establishment of footpaths, trails and other
19 protected areas;

20 (3) the conservation of the proper use of natural
21 resources or the promotion of the study of plant and animal
22 communities and of other phases of ecology, natural history
23 and conservation;

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

26 (5) similar public recreational activities conducted

1 by the Illinois Prairie Path Corporation.

2 No lien shall attach to the property of the State. No tax
3 liability shall become the obligation of or be enforceable
4 against Illinois Prairie Path Corporation.

5 (c) If the State sells the James R. Thompson Center or the
6 Elgin Mental Health Center and surrounding land located at 750
7 S. State Street, Elgin, Illinois, as provided in subdivision
8 (a)(2) of Section 7.4 of the State Property Control Act, to
9 another entity whose property is not exempt and immediately
10 thereafter enters into a leaseback or other agreement that
11 directly or indirectly gives the State a right to use, control,
12 and possess the property, that portion of the property leased
13 and occupied exclusively by the State shall remain exempt under
14 this Section. For the property to remain exempt under this
15 subsection (c), the State must retain an option to purchase the
16 property at a future date or, within the limitations period for
17 reverters, the property must revert back to the State.

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

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

23 (2) the State no longer has an option to purchase or
24 otherwise acquire the property and there is no provision
25 for a reverter of the property to the State within the
26 limitations period for reverters.

1 Pursuant to Sections 15-15 and 15-20 of this Code, the
2 State shall notify the chief county assessment officer of any
3 transaction under this subsection (c). The chief county
4 assessment officer shall determine initial and continuing
5 compliance with the requirements of this Section for tax
6 exemption. Failure to notify the chief county assessment
7 officer of a transaction under this subsection (c) or to
8 otherwise comply with the requirements of Sections 15-15 and
9 15-20 of this Code shall, in the discretion of the chief county
10 assessment officer, constitute cause to terminate the
11 exemption, notwithstanding any other provision of this Code.

12 (c-1) If the Illinois State Toll Highway Authority sells
13 the Illinois State Toll Highway Authority headquarters
14 building and surrounding land, located at 2700 Ogden Avenue,
15 Downers Grove, Illinois as provided in subdivision (a)(2) of
16 Section 7.5 of the State Property Control Act, to another
17 entity whose property is not exempt and immediately thereafter
18 enters into a leaseback or other agreement that directly or
19 indirectly gives the State or the Illinois State Toll Highway
20 Authority a right to use, control, and possess the property,
21 that portion of the property leased and occupied exclusively by
22 the State or the Authority shall remain exempt under this
23 Section. For the property to remain exempt under this
24 subsection (c), the Authority must retain an option to purchase
25 the property at a future date or, within the limitations period
26 for reverters, the property must revert back to the Authority.

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

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

6 (2) the Authority no longer has an option to purchase
7 or otherwise acquire the property and there is no provision
8 for a reverter of the property to the Authority within the
9 limitations period for reverters.

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

21 (d) The fair market rent of each parcel of real property in
22 Will County owned by the State of Illinois for the purpose of
23 developing an airport by the Department of Transportation shall
24 include the assessed value of leasehold tax. The lessee of each
25 parcel of real property in Will County owned by the State of
26 Illinois for the purpose of developing an airport by the

1 Department of Transportation shall not be liable for the taxes
2 thereon. In order for the State to compensate taxing districts
3 for the leasehold tax under this paragraph the Will County
4 Supervisor of Assessments shall certify, in writing, to the
5 Department of Transportation, the amount of leasehold taxes
6 extended for the 2002 property tax year for each such exempt
7 parcel. The Department of Transportation shall pay to the Will
8 County Treasurer, from the Tax Recovery Fund, on or before July
9 1 of each year, the amount of leasehold taxes for each such
10 exempt parcel as certified by the Will County Supervisor of
11 Assessments. The tax compensation shall terminate on December
12 31, 2010. It is the duty of the Department of Transportation to
13 file with the Office of the Will County Supervisor of
14 Assessments an affidavit stating the termination date for
15 rental of each such parcel due to airport construction. The
16 affidavit shall include the property identification number for
17 each such parcel. In no instance shall tax compensation for
18 property owned by the State be deemed delinquent or bear
19 interest. In no instance shall a lien attach to the property of
20 the State. In no instance shall the State be required to pay
21 leasehold tax compensation in excess of the Tax Recovery Fund's
22 balance.

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

25 (f) Notwithstanding anything to the contrary in this
26 Section, all property owned by the State or the Illinois State

1 Toll Highway Authority that is defined as a transportation
2 project under the Public-Private Partnerships for
3 Transportation Act and that is used for transportation purposes
4 and that is leased for those purposes to another entity whose
5 property is not exempt shall remain exempt, and any leasehold
6 interest in the property shall not be subject to taxation under
7 Section 9-195 of this Act.

8 (Source: P.A. 95-331, eff. 8-21-07.)

9 (35 ILCS 200/15-100)

10 Sec. 15-100. Public transportation systems.

11 (a) All property belonging to any municipal corporation
12 created for the sole purpose of owning and operating a
13 transportation system for public service is exempt.

14 (b) Property owned by (i) a municipal corporation of
15 500,000 or more inhabitants, used for public transportation
16 purposes, and operated by the Chicago Transit Authority; (ii)
17 the Regional Transportation Authority; (iii) any service board
18 or division of the Regional Transportation Authority; (iv) the
19 Northeast Illinois Regional Commuter Railroad Corporation; or
20 (v) the Chicago Transit Authority shall be exempt. For purposes
21 of this Section alone, the Regional Transportation Authority,
22 any service board or division of the Regional Transportation
23 Authority, the Northeast Illinois Regional Commuter Railroad
24 Corporation, the Chicago Transit Authority, or a municipal
25 corporation, as defined in item (i), shall be deemed an

1 "eligible transportation authority".

2 The exemption provided in this subsection shall not be
3 affected by any transaction in which:~~7~~

4 (1) for the purpose of obtaining financing, the
5 eligible transportation authority, directly or indirectly,
6 leases or otherwise transfers such property to another
7 whose property is not exempt and immediately thereafter
8 enters into a leaseback or other agreement that directly or
9 indirectly gives the eligible transportation authority a
10 right to use, control, and possess the property; or

11 (2) the eligible transportation authority leases, to
12 another entity whose property is not exempt, property that
13 is defined as a mass transportation project under Article
14 II-A of the Regional Transportation Authority Act and used
15 for transportation purposes.

16 In the case of a conveyance of such property, the eligible
17 transportation authority must retain an option to purchase the
18 property at a future date or, within the limitations period for
19 reverters, the property must revert back to the eligible
20 transportation authority.

21 (c) If such property has been conveyed as described in
22 paragraph (1) of subsection (b), the property will no longer be
23 exempt pursuant to this Section as of the date when:

24 (1) the right of the eligible transportation authority
25 to use, control, and possess the property has been
26 terminated;

1 (2) the eligible transportation authority no longer
2 has an option to purchase or otherwise acquire the
3 property; and

4 (3) there is no provision for a reverter of the
5 property to the eligible transportation authority within
6 the limitations period for reverters.

7 (d) Pursuant to Sections 15-15 and 15-20 of this Code, the
8 eligible transportation authority shall notify the chief
9 county assessment officer of any transaction under subsection
10 (b) of this Section. The chief county assessment officer shall
11 determine initial and continuing compliance with the
12 requirements of this Section for tax exemption. Failure to
13 notify the chief county assessment officer of a transaction
14 under this Section or to otherwise comply with the requirements
15 of Sections 15-15 and 15-20 of this Code shall, in the
16 discretion of the chief county assessment officer, constitute
17 cause to terminate the exemption, notwithstanding any other
18 provision of this Code.

19 (e) No provision of this Section shall be construed to
20 affect the obligation of the eligible transportation authority
21 to which an exemption certificate has been issued under this
22 Section from its obligation under Section 15-10 of this Code to
23 file an annual certificate of status or to notify the chief
24 county assessment officer of transfers of interest or other
25 changes in the status of the property as required by this Code.

26 (f) The changes made by this amendatory Act of 1997 are

1 declarative of existing law and shall not be construed as a new
2 enactment.

3 (Source: P.A. 90-562, eff. 12-16-97.)

4 Section 950. The Regional Transportation Authority Act is
5 amended by adding Article II-A and by adding Sections 2A.01,
6 2A.05, 2A.10, 2A.15, 2A.20, 2A.25, 2A.30, 2A.35, 2A.40, 2A.45,
7 2A.50, and 2A.55 as follows:

8 (70 ILCS 3615/Art. II-A heading new)

9 ARTICLE II-A. PUBLIC-PRIVATE PARTNERSHIPS.

10 (70 ILCS 3615/2A.01 new)

11 Sec. 2A.01. Definitions. As used in this Article:

12 "Contractor" means a private entity that has entered into a
13 public-private agreement with the Authority or a Service Board
14 to provide services to or on behalf of the Authority or the
15 Service Board.

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

19 "Maintain" or "maintenance" includes ordinary maintenance,
20 repair, rehabilitation, capital maintenance, maintenance
21 replacement, and any other categories of maintenance that may
22 be designated by the Authority or a Service Board.

23 "Mass transportation project" or "project" means all or any

1 portion of a project undertaken under this Article with respect
2 to any new or existing mass transit facility, public
3 transportation facility, or other transportation facility or
4 infrastructure under the jurisdiction of the Authority or a
5 Service Board.

6 "Offeror" means a private entity that has submitted a
7 proposal for a public-private agreement under this Article.

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

18 "Public-private agreement" means the public-private
19 agreement between the contractor and the Authority or a Service
20 Board relating to one or more of the development, financing, or
21 operation of a mass transportation project that is entered into
22 under this Article.

23 "Request for proposals" means all materials and documents
24 prepared by or on behalf of the Authority or a Service Board to
25 solicit proposals from offerors to enter into a public-private
26 agreement.

1 "Request for qualifications" means all materials and
2 documents prepared by or on behalf of the Authority or a
3 Service Board to solicit qualification submittals from
4 offerors to enter into a public-private agreement.

5 "Revenues" means all revenues, including any combination
6 of: income; earnings and interest; user fees; lease payments;
7 allocations; federal, State, and local appropriations, grants,
8 loans, lines of credit, and credit guarantees; bond proceeds;
9 equity investments; service payments; or other receipts;
10 arising out of or in connection with a transportation project,
11 including the development, financing, and operation of a
12 transportation project. The term includes money received as
13 grants, loans, lines of credit, credit guarantees, or otherwise
14 in aid of a mass transportation project from the federal
15 government, the State, a unit of local government, or any
16 agency or instrumentality of the federal government, the State,
17 or a unit of local government.

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

21 (70 ILCS 3615/2A.05 new)

22 Sec. 2A.05. Formation of public-private agreements;
23 project planning.

24 (a) The Authority and the Service Boards may exercise the
25 powers granted by this Article to do some or all of develop,

1 finance, and operate any part of one or more mass
2 transportation projects through public-private agreements with
3 one or more private entities. The Authority and each of the
4 Service Boards may use the revenues arising out of one mass
5 transportation project or public-private agreement and use
6 them for some or all of developing, financing, and operating
7 any part of one or more additional or other mass transportation
8 projects through public-private agreements with one or more
9 private entities or as otherwise deemed appropriate by the
10 Authority or the Service Board.

11 (b) A contractor has:

12 (1) all powers allowed by law generally to a private
13 entity having the same form of organization as the
14 contractor; and

15 (2) the power to develop, finance, and operate the mass
16 transportation project and impose user fees in connection
17 with the use of the mass transportation project, subject to
18 the terms of the public-private agreement.

19 No user fees may be imposed by the contractor except as set
20 forth in a public-private agreement.

21 (c) Each year, at least 30 days prior to the beginning of
22 the Authority's and each Service Board's fiscal year, the
23 Authority and each Service Board shall submit a description of
24 potential projects that the Authority and each Service Board is
25 considering undertaking under this Article to:

26 (1) the General Assembly, with respect to all such

1 projects;

2 (2) each county, municipality, and metropolitan
3 planning organization, with respect to each project
4 located within its boundaries; and

5 (3) the Authority, with respect to each project that
6 each Service Board is considering undertaking.

7 (d) Any project undertaken under this Article shall be
8 subject to all applicable planning requirements otherwise
9 required by law, including land use planning, regional
10 planning, transportation planning, and environmental
11 compliance requirements.

12 (e) Any new transportation facility developed as a project
13 under this Article must be consistent with the metropolitan
14 planning organization's regional plan then in existence with
15 respect to each project located within a metropolitan planning
16 organization's boundaries.

17 (70 ILCS 3615/2A.10 new)

18 Sec. 2A.10. Procurement process.

19 (a) The Authority and each of the Service Boards may
20 request proposals from private entities for some or all of the
21 development, financing, and operation of one or more mass
22 transportation projects.

23 (b) The Authority and each of the Service Boards may pursue
24 a competitive proposal process using a request for
25 qualifications and a request for proposals process or proceed

1 directly to a request for proposals.

2 (c) If the Authority or the Service Board elects to utilize
3 a request for qualifications phase, it shall provide a public
4 notice of the request for qualifications for such period as
5 deemed appropriate or warranted by the Authority or the Service
6 Board and shall set forth requirements and evaluation criteria
7 in the request for qualifications. Upon receipt of
8 qualifications, the Authority or the Service Board shall choose
9 which parties that have submitted qualifications, if any, meet
10 the requirements and evaluation criteria in the request for
11 qualifications and shall issue requests for proposals only to
12 those parties.

13 (d) If the Authority or the Service Board has not issued a
14 request for qualification under this Section and intends to use
15 only a request for proposals procurement, the Authority or the
16 Service Board shall provide a public notice of the request for
17 proposals for a period deemed appropriate or warranted by the
18 Authority or the Service Board.

19 (e) A request for proposals shall:

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

22 (2) contain or incorporate by reference the
23 specifications and contractual terms and conditions
24 applicable to the procurement and the mass transportation
25 project;

26 (3) specify the factors, criteria, and other

1 information that will be used in evaluating the proposals;

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

4 (5) contain or incorporate by reference any other
5 provisions, materials, or documents the Authority or the
6 Service Board deems appropriate.

7 (f) The Authority or the Service Board shall determine the
8 evaluation criteria that are most appropriate for each mass
9 transportation project and shall set forth those criteria in
10 the request for proposals. The Authority or the Service Board
11 may use (i) a selection process that results in selection of
12 the proposal offering the best value to the public, (ii) a
13 selection process that results in selection of the proposal
14 offering the lowest price or cost or the highest payment to, or
15 revenue sharing with, the Authority or the Service Board, (iii)
16 a selection process that results in the imposition of the
17 lowest amount of user fees, or (iv) any other selection process
18 that the Authority or the Service Board determines is in the
19 best interests of the public.

20 (g) After the procedures required in this Article have been
21 completed, the Authority or the Service Board shall make a
22 determination as to whether the successful offeror should be
23 designated as the contractor for the mass transportation
24 project.

25 (h) After designating the successful offeror as the
26 contractor for the project, the Authority or the Service Board

1 shall execute the public-private agreement and publish notice
2 of the execution of the public-private agreement.

3 (i) Any action to contest the validity of a public-private
4 agreement entered into under this Article must be brought no
5 later than 30 days after the date of publication of the notice
6 of execution of the public-private agreement.

7 (j) In addition to any other rights under this Article, in
8 connection with any procurement under this Article, the
9 following rights are reserved to the Authority and each of the
10 Service Boards:

11 (1) to withdraw a request for qualifications or a
12 request for proposals at any time. The Authority or the
13 Service Board may then publish a new request for
14 qualifications or request for proposals;

15 (2) to not award a public-private agreement for any
16 reason;

17 (3) to request clarifications to any qualification
18 submittal or request for proposals or seek one or more
19 revised proposals or one or more best and final offers or
20 conduct negotiations with one or more offerors;

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

25 (5) to interview offerors; and

26 (6) any other rights available to the Authority or the

1 Service Board under applicable law and regulations.

2 (70 ILCS 3615/2A.15 new)

3 Sec. 2A.15. Public-private agreements.

4 (a) Before developing, financing, or operating the mass
5 transportation project, the contractor shall enter into a
6 public-private agreement with the Authority or the Service
7 Board. Subject to the other provisions of this Article, the
8 Authority or the Service Board and a private entity may enter
9 into a public-private agreement with respect to a project.
10 Subject to the requirements of this Article, a public-private
11 agreement may provide that the private entity, acting on behalf
12 of the Authority or the Service Board, is partially or entirely
13 responsible for any combination of developing, financing, or
14 operating the mass transportation project under terms set forth
15 in the public-private agreement.

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

20 (1) Construction of the mass transportation project
21 under terms set forth in the public-private agreement,
22 which may include design-build construction.

23 (2) Delivery of performance and payment bonds or other
24 performance security determined suitable by the Authority
25 or the Service Board, including letters of credit, United

1 States bonds and notes, parent guaranties, and cash
2 collateral, in connection with the development, financing,
3 or operation of the mass transportation project, in the
4 forms and amounts set forth in the public-private agreement
5 or otherwise determined as satisfactory by the Authority or
6 the Service Board, to protect the Authority or the Service
7 Board and payment bond beneficiaries who have a direct
8 contractual relationship with the contractor or a
9 subcontractor of the contractor to supply labor or
10 material. The payment or performance bond or alternative
11 form of performance security is not required for the
12 portion of a public-private agreement that includes only
13 design, planning or financing services, the performance of
14 preliminary studies, or the acquisition of real property.

15 (3) Review of plans for any development or operation,
16 or both, of the mass transportation project by the
17 Authority or the Service Board.

18 (4) Inspection of any construction of or improvements
19 to the mass transportation project by the Authority or the
20 Service Board or another entity designated by the Authority
21 or the Service Board or under the public-private agreement
22 to ensure that the construction or improvements conform to
23 the standards set forth in the public-private agreement or
24 are otherwise acceptable to the Authority or the Service
25 Board.

26 (5) Maintenance of:

1 (A) one or more policies of public liability
2 insurance (copies of which shall be filed with the
3 Authority or the Service Board accompanied by proofs of
4 coverage); or

5 (B) self-insurance;

6 each in form and amount as set forth in the public-private
7 agreement or otherwise satisfactory to the Authority or the
8 Service Board as reasonably sufficient to insure coverage
9 of tort liability to the public and employees and to enable
10 the continued operation of the mass transportation
11 project.

12 (6) Where operations are included within the
13 contractor's obligations under the public-private
14 agreement, monitoring of the maintenance practices of the
15 contractor by the Authority or the Service Board or another
16 entity designated by the Authority or the Service Board or
17 under the public-private agreement and the taking of the
18 actions the Authority or the Service Board finds
19 appropriate to ensure that the mass transportation project
20 is properly maintained.

21 (7) Reimbursement to be paid to the Authority or the
22 Service Board as set forth in the public-private agreement
23 for services provided by the Authority or the Service
24 Board.

25 (8) Filing of appropriate financial statements and
26 reports as set forth in the public-private agreement or as

1 otherwise in a form acceptable to the Authority or the
2 Service Board on a periodic basis.

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

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

9 (B) a development fee, payable on a lump sum basis,
10 progress payment basis, time and materials basis, or
11 another basis deemed appropriate by the Authority or
12 the Service Board;

13 (C) an operations fee, payable on a lump-sum basis,
14 time and material basis, periodic basis, or another
15 basis deemed appropriate by the Authority or the
16 Service Board;

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

19 (E) a maximum rate of return on investment or
20 return on equity or a combination of the 2;

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

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

25 (H) other compensation set forth in the
26 public-private agreement or otherwise deemed

1 appropriate by the Authority or the Service Board.

2 (10) Compensation or payments to the Authority or the
3 Service Board, if any. Compensation or payments may include
4 any or a combination of the following:

5 (A) a concession or lease payment or other fee,
6 which may be payable upfront or on a periodic basis or
7 on another basis deemed appropriate by the Authority or
8 the Service Board;

9 (B) sharing of revenues, if any, from the operation
10 of the mass transportation project;

11 (C) sharing of project savings from the
12 construction of the mass transportation project;

13 (D) payment for any services, materials,
14 equipment, personnel, or other items provided by the
15 Authority or the Service Board to the contractor under
16 the public-private agreement or in connection with the
17 mass transportation project; or

18 (E) other compensation set forth in the
19 public-private agreement or otherwise deemed
20 appropriate by the Authority or the Service Board.

21 (11) The date and terms of termination of the
22 contractor's authority and duties under the public-private
23 agreement and the circumstances under which the
24 contractor's authority and duties may be terminated prior
25 to that date.

26 (12) Reversion of the mass transportation project to

1 the Authority or the Service Board at the termination or
2 expiration of the public-private agreement.

3 (13) Rights and remedies of the Authority or the
4 Service Board in the event that the contractor defaults or
5 otherwise fails to comply with the terms of the
6 public-private agreement.

7 (14) Other terms, conditions, and provisions that the
8 Authority or the Service Board believes are in the public
9 interest.

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

20 (d) A public-private agreement may:

21 (1) authorize user fees in any manner determined
22 appropriate by the Authority or the Service Board for the
23 mass transportation project;

24 (2) authorize the contractor to adjust the user fees
25 for the use of the mass transportation project, so long as
26 the amounts charged and collected by the contractor do not

1 exceed the maximum amounts established by the Authority or
2 the Service Board under this Article;

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

8 (4) authorize the contractor to charge and collect user
9 fees through methods determined appropriate by the
10 Authority or the Service Board for the mass transportation
11 project; and

12 (5) authorize the collection of user fees by a third
13 party.

14 (e) In the public-private agreement, the Authority or the
15 Service Board may agree to make grants or loans for the
16 development or operation, or both, of the mass transportation
17 project from time to time from amounts received from the
18 federal government or any agency or instrumentality of the
19 federal government or from any State or local agency.

20 (f) Upon the termination or expiration of the
21 public-private agreement, including a termination for default,
22 the Authority or the Service Board shall have the right to take
23 over the mass transportation project and to succeed to all of
24 the right, title, and interest in the mass transportation
25 project, subject to any liens on revenues previously granted by
26 the contractor to any person providing financing for the mass

1 transportation project.

2 (g) If the Authority or a Service Board elects to take over
3 a mass transportation project as provided in subsection (f),
4 the Authority or the Service Board may do the following:

5 (1) develop, finance, or operate the project; or

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

8 (h) If a transportation agency elects to take over a mass
9 transportation project as provided in subsection (f), the
10 Authority or the Service Board may use the revenues, if any,
11 for any lawful purpose, including to:

12 (1) make payments to individuals or entities in
13 connection with any financing of the mass transportation
14 project;

15 (2) pay development costs of the project;

16 (3) pay current operation costs of the project or
17 facilities;

18 (4) pay the contractor for any compensation or payment
19 owing upon termination; and

20 (5) pay for the development, financing, or operation of
21 any other project or projects the Authority or the Service
22 Board deems appropriate.

23 (i) The full faith and credit of the State, any political
24 subdivision of the State, the Authority, or any of the Service
25 Boards is not pledged to secure any financing of the contractor
26 by the election to take over the mass transportation project.

1 Assumption of development or operation, or both, of the mass
2 transportation project does not obligate the State, any
3 political subdivision of the State, the Authority, or any of
4 the Service Boards to pay any obligation of the contractor.

5 (j) Notwithstanding any other provision of this Article,
6 the Authority or a Service Board may enter into a
7 public-private agreement with multiple private entities if the
8 Authority or the Service Board determines in writing that it is
9 in the public interest to do so.

10 (70 ILCS 3615/2A.20 new)

11 Sec. 2A.20. Development and operations standards for mass
12 transportation projects.

13 (a) The plans and specifications, if any, for each project
14 developed under this Article must comply with:

15 (1) the Authority's or the Service Board's standards
16 for other projects of a similar nature or as otherwise
17 provided in the public-private agreement; and

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

19 (b) Any local or State agency may enter into agreements
20 with the contractor for maintenance or other services under
21 this Article.

22 (70 ILCS 3615/2A.25 new)

23 Sec. 2A.25. Financial arrangements.

24 (a) The Authority and each Service Board may do any

1 combination of applying for, executing, or endorsing
2 applications submitted by private entities to obtain federal,
3 State, or local credit assistance for mass transportation
4 projects developed, financed, or operated under this Article,
5 including loans, lines of credit, and guarantees.

6 (b) The Authority and each Service Board may take any
7 action to obtain federal, State, or local assistance for a mass
8 transportation project that serves the public purpose of this
9 Article and may enter into any contracts required to receive
10 the federal assistance. The Authority and each Service Board
11 may determine that it serves the public purpose of this Article
12 for all or any portion of the costs of a mass transportation
13 project to be paid, directly or indirectly, from the proceeds
14 of a grant, loan, line of credit, or loan guarantee made by a
15 local, State, or federal government or any agency or
16 instrumentality of a local, State, or federal government.

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

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

26 (e) For the purpose of financing a mass transportation

1 project, the contractor, the Authority, and each Service Board
2 may do the following:

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

5 (2) enter into grant agreements;

6 (3) access any other funds available to the Authority
7 or the Service Board; and

8 (4) accept grants from the Authority or the Service
9 Board or another public or private agency or entity.

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

14 (g) For the purpose of financing a mass transportation
15 project, the Authority and each Service Board shall be
16 authorized to apply for, obtain, issue, and use private
17 activity bonds available under any federal law or program, as
18 well as financing available under any other federal law or
19 program.

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

1 Sec. 2A.30. Acquisition of property.

2 (a) The Authority and each Service Board may exercise any
3 power of condemnation that it has under law for the purpose of
4 acquiring any lands or estates or interests in land for a mass
5 transportation project, to the extent provided in the
6 public-private agreement or otherwise to the extent that the
7 Authority or the Service Board finds that the action serves the
8 public purpose of this Article.

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

13 (70 ILCS 3615/2A.35 new)

14 Sec. 2A.35. Labor; law enforcement.

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

21 (b) A public-private agreement related to a mass
22 transportation project pertaining to a new transportation
23 facility shall require the contractor to enter into a project
24 labor agreement that must include provisions establishing the
25 minimum hourly wage, benefits, and other compensation for each

1 class of labor organization employee and such other terms as
2 are negotiated between the contractor and the labor
3 organizations.

4 (c) All law enforcement officers of the State and of each
5 affected local jurisdiction have the same powers and
6 jurisdiction within the limits of the mass transportation
7 project as they have in their respective areas of jurisdiction.

8 (d) Law enforcement officers shall have access to the mass
9 transportation project at any time for the purpose of
10 exercising the law enforcement officers' powers and
11 jurisdiction.

12 (e) Punishment for infractions and offenses shall be as
13 prescribed by law for conduct occurring on similar projects in
14 the jurisdiction.

15 (70 ILCS 3615/2A.40 new)

16 Sec. 2A.40. Term of agreement; reversion of property to the
17 Authority or Service Board.

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

20 (b) The Authority or the Service Board shall terminate the
21 contractor's authority and duties under the public-private
22 agreement on the date set forth in the public-private
23 agreement.

24 (c) Upon termination of the public-private agreement, the
25 authority and duties of the contractor under this Article

1 cease, except for those duties and obligations that extend
2 beyond the termination, as set forth in the public-private
3 agreement, and the mass transportation project shall revert to
4 the Authority or the Service Board.

5 (70 ILCS 3615/2A.45 new)

6 Sec. 2A.45. Additional powers of the Authority and the
7 Service Boards with respect to mass transportation projects.

8 (a) The Authority and the Service Boards may exercise any
9 powers provided under this Article in participation or
10 cooperation with any governmental entity and enter into any
11 contracts to facilitate that participation or cooperation
12 without compliance with any other statute.

13 (b) The Authority and the Service Boards may make and enter
14 into all contracts and agreements necessary or incidental to
15 the performance of the Authority's or the Service Board's
16 duties and the execution of the Authority's or the Service
17 Board's powers under this Article. Except as otherwise required
18 by law, these contracts or agreements are not subject to any
19 approvals other than the approval of the Authority or the
20 Service Board and may be for any term of years and contain any
21 terms that are considered reasonable by the Authority or the
22 Service Board.

23 (c) The Authority and the Service Boards may pay the costs
24 incurred under a public-private agreement entered into under
25 this Article from any funds available to the Authority or the

1 Service Boards under this Article or any other statute.

2 (d) A State agency may not take any action that would
3 impair a public-private agreement entered into under this
4 Article.

5 (70 ILCS 3615/2A.50 new)

6 Sec. 2A.50. Powers liberally construed. The powers
7 conferred by this Article shall be liberally construed in order
8 to accomplish their purposes and shall be in addition and
9 supplemental to the powers conferred by any other law. If any
10 other law or rule is inconsistent with this Article, this
11 Article is controlling as to any public-private agreement
12 entered into under this Article.

13 (70 ILCS 3615/2A.55 new)

14 Sec. 2A.55. Full and complete authority. This Article
15 contains full and complete authority for agreements and leases
16 with private entities to carry out the activities described in
17 this Article. Except as otherwise required by law, no
18 procedure, proceedings, publications, notices, consents,
19 approvals, orders, or acts by the Authority or the Service
20 Board or any other State or local agency or official are
21 required to enter into an agreement or lease.

22 Section 955. The Toll Highway Act is amended by adding
23 Section 11.1 as follows:

1 (605 ILCS 10/11.1 new)

2 Sec. 11.1. Public-private partnerships. The Authority may
3 exercise all powers granted to it under the Public-Private
4 Partnerships for Transportation Act.

5 Section 960. The Prevailing Wage Act is amended by changing
6 Section 2 as follows:

7 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

8 Sec. 2. This Act applies to the wages of laborers,
9 mechanics and other workers employed in any public works, as
10 hereinafter defined, by any public body and to anyone under
11 contracts for public works. This includes any maintenance,
12 repair, assembly, or disassembly work performed on equipment
13 whether owned, leased, or rented.

14 As used in this Act, unless the context indicates
15 otherwise:

16 "Public works" means all fixed works constructed by any
17 public body, other than work done directly by any public
18 utility company, whether or not done under public supervision
19 or direction, or paid for wholly or in part out of public
20 funds. "Public works" as defined herein includes all projects
21 financed in whole or in part with bonds issued under the
22 Industrial Project Revenue Bond Act (Article 11, Division 74 of
23 the Illinois Municipal Code), the Industrial Building Revenue

1 Bond Act, the Illinois Finance Authority Act, the Illinois
2 Sports Facilities Authority Act, or the Build Illinois Bond
3 Act, and all projects financed in whole or in part with loans
4 or other funds made available pursuant to the Build Illinois
5 Act. "Public works" also includes (i) all projects financed in
6 whole or in part with funds from the Fund for Illinois' Future
7 under Section 6z-47 of the State Finance Act, funds for school
8 construction under Section 5 of the General Obligation Bond
9 Act, funds authorized under Section 3 of the School
10 Construction Bond Act, funds for school infrastructure under
11 Section 6z-45 of the State Finance Act, and funds for
12 transportation purposes under Section 4 of the General
13 Obligation Bond Act. "Public works" also includes all projects
14 financed in whole or in part with funds from the Department of
15 Commerce and Economic Opportunity under the Illinois Renewable
16 Fuels Development Program Act for which there is no project
17 labor agreement and (ii) all projects undertaken under a
18 public-private agreement under the Public-Private Partnerships
19 for Transportation Act or Article II-A of the Regional
20 Transportation Authority Act. "Public works" also includes all
21 projects at leased facility property used for airport purposes
22 under Section 35 of the Local Government Facility Lease Act.

23 "Construction" means all work on public works involving
24 laborers, workers or mechanics. This includes any maintenance,
25 repair, assembly, or disassembly work performed on equipment
26 whether owned, leased, or rented.

1 "Locality" means the county where the physical work upon
2 public works is performed, except (1) that if there is not
3 available in the county a sufficient number of competent
4 skilled laborers, workers and mechanics to construct the public
5 works efficiently and properly, "locality" includes any other
6 county nearest the one in which the work or construction is to
7 be performed and from which such persons may be obtained in
8 sufficient numbers to perform the work and (2) that, with
9 respect to contracts for highway work with the Department of
10 Transportation of this State, "locality" may at the discretion
11 of the Secretary of the Department of Transportation be
12 construed to include two or more adjacent counties from which
13 workers may be accessible for work on such construction.

14 "Public body" means the State or any officer, board or
15 commission of the State or any political subdivision or
16 department thereof, or any institution supported in whole or in
17 part by public funds, and includes every county, city, town,
18 village, township, school district, irrigation, utility,
19 reclamation improvement or other district and every other
20 political subdivision, district or municipality of the state
21 whether such political subdivision, municipality or district
22 operates under a special charter or not.

23 The terms "general prevailing rate of hourly wages",
24 "general prevailing rate of wages" or "prevailing rate of
25 wages" when used in this Act mean the hourly cash wages plus
26 fringe benefits for training and apprenticeship programs

1 approved by the U.S. Department of Labor, Bureau of
2 Apprenticeship and Training, health and welfare, insurance,
3 vacations and pensions paid generally, in the locality in which
4 the work is being performed, to employees engaged in work of a
5 similar character on public works.

6 (Source: P.A. 94-750, eff. 5-9-06; 95-341, eff. 8-21-07.)

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