



Executive Committee

**Filed: 5/5/2010**

09600SB3659ham001

LRB096 20363 AJT 41231 a

1 AMENDMENT TO SENATE BILL 3659

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3659 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 Agreements for the Illiana Expressway Act.

6 Section 5. Legislative findings.

7 (a) The State of Illinois and the State of Indiana are  
8 engaged in collaborative planning efforts to build a new  
9 interstate highway connecting Interstate Highway 55 in  
10 Illinois to Interstate Highway 65 in Indiana to serve the  
11 public at large.

12 (b) The Illiana Expressway will promote development and  
13 investment in the State of Illinois and serve as a critical  
14 transportation route in the region.

15 (c) Public private agreements between the State of Illinois  
16 and one or more private entities to develop, finance,

1 construct, manage, or operate the Illiana Expressway have the  
2 potential of maximizing value and benefit to the People of the  
3 State of Illinois and the public at large.

4 (d) Public private agreements may enable the Illiana  
5 Expressway to be developed, financed, constructed, managed, or  
6 operated in an entrepreneurial and business-like manner.

7 (e) In the event the State of Illinois enters into one or  
8 more public private agreements to develop, finance, construct,  
9 manage, or operate the Illiana Expressway, the private parties  
10 to the agreements should be accountable to the People of  
11 Illinois through a comprehensive system of oversight,  
12 regulation, auditing, and reporting.

13 (f) It is the intent of this Act to use Illinois design  
14 professionals, construction companies, and workers to the  
15 greatest extent permitted by law by offering them the right to  
16 compete for this work.

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

18 "Agreement" means a public private agreement.

19 "Contractor" means a person that has been selected to enter  
20 or has entered into a public private agreement with the  
21 Department on behalf of the State for the development,  
22 financing, construction, management, or operation of the  
23 Illiana Expressway pursuant to this Act.

24 "Department" means the Illinois Department of  
25 Transportation.

1 "Illiana Expressway" means the fully access-controlled  
2 interstate highway connecting Interstate Highway 55 in  
3 northeastern Illinois to Interstate Highway 65 in northwestern  
4 Indiana, which may be operated as a toll or non-toll facility.

5 "Metropolitan planning organization" means a metropolitan  
6 planning organization designated under 23 U.S.C. Section 134.

7 "Offeror" means a person that responds to a request for  
8 qualifications under this Act.

9 "Person" means any individual, firm, association, joint  
10 venture, partnership, estate, trust, syndicate, fiduciary,  
11 corporation, or any other legal entity, group, or combination  
12 thereof.

13 "Public private agreement" means an agreement or contract  
14 between the Department on behalf of the State and all  
15 schedules, exhibits, and attachments thereto, entered into  
16 pursuant to a competitive request for qualifications process  
17 governed by the Illinois Procurement Code and rules adopted  
18 under that Code and this Act, for the development, financing,  
19 construction, management, or operation of the Illiana  
20 Expressway pursuant to this Act.

21 "Revenues" means all revenues including but not limited to  
22 income; user fees; earnings; interest; lease payments;  
23 allocations; moneys from the federal government, the State, and  
24 units of local government, including but not limited to  
25 federal, State, and local appropriations, grants, loans, lines  
26 of credit, and credit guarantees; bond proceeds; equity

1 investments; service payments; or other receipts arising out of  
2 or in connection with the financing, development,  
3 construction, management, or operation of the Illiana  
4 Expressway.

5 "State" means the State of Illinois.

6 "Secretary" means the Secretary of the Illinois Department  
7 of Transportation.

8 "Unit of local government" has the meaning ascribed to that  
9 term in Article VII, Section 1 of the Constitution of the State  
10 of Illinois, and, for purposes of this Act, includes school  
11 districts.

12 "User fees" means the tolls, rates, fees, or other charges  
13 imposed by the State or the contractor for use of all or part  
14 of the Illiana Expressway.

15 Section 15. Public private agreement authorized.

16 (a) Notwithstanding any provision of law to the contrary,  
17 the Department on behalf of the State may, pursuant to a  
18 competitive request for qualifications process governed by the  
19 Illinois Procurement Code and rules adopted under that Code and  
20 this Act, enter into one or more public private agreements with  
21 one or more contractors to develop, finance, construct, manage,  
22 or operate the Illiana Expressway on behalf of the State, and  
23 further pursuant to which the contractors may receive certain  
24 revenues including user fees in consideration of the payment of  
25 moneys to the State for that right.

1 (b) Before taking any action in connection with the  
2 development, financing, construction, maintenance, or  
3 operation of the Illiana Expressway that is not authorized by  
4 an interim agreement under Section 30 of this Act, a contractor  
5 shall enter into a public private agreement.

6 (c) The term of a public private agreement, including all  
7 extensions, shall be no more than 99 years.

8 (d) The term of a public private agreement may be extended  
9 but only if the extension is specifically authorized by the  
10 General Assembly by law.

11 Section 17. Procurement; prequalification. The Department  
12 may establish a process for prequalification of offerors. If  
13 the Department does create such a process, it shall: (i)  
14 provide a public notice of the prequalification at least 30  
15 days prior to the date on which applications are due; (ii) set  
16 forth requirements and evaluation criteria in order to become  
17 prequalified; (iii) determine which offerors that have  
18 submitted prequalification applications, if any, meet the  
19 requirements and evaluation criteria; and (iv) allow only those  
20 offerors that have been prequalified to respond to the request  
21 for qualifications.

22 Section 20. Procurement; request for qualifications  
23 process.

24 (a) Notwithstanding any provision of law to the contrary,

1 the Department on behalf of the State shall select a contractor  
2 through a competitive request for qualifications process  
3 governed by the Illinois Procurement Code and rules adopted  
4 under that Code and this Act.

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

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

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

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

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

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

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

24 (6) The offeror's plans to comply with the Business  
25 Enterprise for Minorities, Females, and Persons with  
26 Disabilities Act and Section 2-105 of the Illinois Human

1 Rights Act.

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

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

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

26 (g) Before awarding a public private agreement to an

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

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

8 (2) the subject matter of the hearing;

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

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

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

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



1           Section 25. Provisions of the public private agreement.

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

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

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

8                 (3) Compensation or payments to the Department;

9                 (4) Compensation or payments to the contractor;

10                (5) A provision specifying that the Department:

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

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

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

22                 (6) A provision imposing an affirmative duty on the  
23 contractor to provide the Department with any information  
24 the contractor reasonably believes the Department would  
25 want to know or would need to know to enable the Department  
26 to exercise its powers, carry out its duties,

1 responsibilities, and obligations, and perform its  
2 functions under this Act or the public private agreement or  
3 as otherwise required by law;

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

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

14 (9) The authority of the Department to enter into  
15 contracts with third parties pursuant to Section 50 of this  
16 Act;

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

19 (10.5) A provision stating that, in the event the  
20 contractor finds it necessary, proper, or desirable to  
21 enter into subcontracts with one or more design-build  
22 entities, then it must follow a selection process that is,  
23 to the greatest extent possible, identical to the selection  
24 process contained in the Design-Build Procurement Act;

25 (11) The authority of the contractor to impose user  
26 fees and the amounts of those fees, including the authority

1 of the contractor to use congestion pricing, pursuant to  
2 which higher tolls rates are imposed during times or in  
3 locations of increased congestion;

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

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

9 (14) A provision stating that the contractor must,  
10 pursuant to Section 75 of this Act, finance an independent  
11 audit if the construction costs under the contract exceed  
12 \$50,000,000;

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

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

21 (17) Procedural requirements for obtaining the prior  
22 approval of the Department when rights that are the subject  
23 of the agreement, including but not limited to development  
24 rights, construction rights, property rights, and rights  
25 to certain revenues, are sold, assigned, transferred, or  
26 pledged as collateral to secure financing or for any other

1 reason;

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

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

8 (20) Timelines, deadlines, and scheduling;

9 (21) Review of plans, including development,  
10 financing, construction, management, or operations plans,  
11 by the Department;

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

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

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

19 (25) Procedures for amendment to the agreement.

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

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

24 (2) Cash reserves requirements;

25 (3) A provision requiring the contractor to locate its  
26 principal office within the State;

1           (4) Delivery of performance and payment bonds or other  
2           performance security in a form and amount that is  
3           satisfactory to the Department;

4           (5) Maintenance of public liability insurance;

5           (6) Maintenance of self-insurance;

6           (7) Provisions governing grants and loans, pursuant to  
7           which the Department may agree to make grants or loans for  
8           the development, financing, construction, management, or  
9           operation of the Illiana Expressway project from time to  
10          time from amounts received from the federal government or  
11          any agency or instrumentality of the federal government or  
12          from any State or local agency;

13          (8) Reimbursements to the Department for work  
14          performed and goods, services, and equipment provided by  
15          the Department; and

16          (9) All other terms, conditions, and provisions  
17          acceptable to the Department that the Department deems  
18          necessary and proper and in the public interest.

19          Section 30. Interim agreements.

20          (a) Prior to or in connection with the negotiation of the  
21          public private agreement, the Department may enter into an  
22          interim agreement with the contractor.

23          (b) The interim agreement may not authorize the contractor  
24          to perform construction work prior to the execution of the  
25          public private agreement.

1           (c) The interim agreement may include any or all of the  
2 following:

3           (1) Timelines, deadlines, and scheduling;

4           (2) Compensation including the payment of costs and  
5 fees in the event the Department terminates the interim  
6 agreement or declines to proceed with negotiation of the  
7 public private agreement;

8           (3) A provision governing the contractor's authority  
9 to commence activities related to the Illiana Expressway  
10 project including but not limited to project planning,  
11 advance right-of-way acquisition, design and engineering,  
12 environmental analysis and mitigation, surveying,  
13 conducting studies including revenue and transportation  
14 studies, and ascertaining the availability of financing;

15           (4) Procurement procedures;

16           (5) A provision governing rights to real and personal  
17 property of the State, the Department, the contractor, and  
18 other third parties;

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

22           (d) The Department may enter into one or more interim  
23 agreements with one or more contractors if the Department  
24 determines in writing that it is in the public interest to do  
25 so.

1       Section 35. Termination of the Public Private Agreement.  
2       The Department may terminate a public private agreement or  
3       interim agreement under Section 30 of this Act if the  
4       contractor or any executive employee of the contractor is found  
5       guilty of any criminal offense related to the conduct of its  
6       business or the regulation thereof in any jurisdiction. For  
7       purposes of this Section, an "executive employee" is the  
8       President, Chairman, Chief Executive Officer, or Chief  
9       Financial Officer; any employee with executive decision-making  
10      authority over the long-term or day-to-day affairs of the  
11      contractor; or any employee whose compensation or evaluation is  
12      determined in whole or in part by the award of the public  
13      private agreement.

14      Section 40. Public private agreement proceeds. After the  
15      payment of all transaction costs, including payments for legal,  
16      accounting, financial, consultation, and other professional  
17      services, all moneys received by the State as compensation for  
18      the public private agreement shall be deposited into the  
19      Illiana Expressway Proceeds Fund, which is hereby created as a  
20      special fund in the State treasury. Monies in the Illiana  
21      Expressway Proceeds Fund shall be appropriated by the General  
22      Assembly and expended for the purposes and activities specified  
23      by this Act.

24      Section 45. User fees. No user fees may be imposed by the

1 contractor except as set forth in the public private agreement.

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

7 Section 50. Other contracts. The Department may, pursuant  
8 to the Illinois Procurement Code and rules adopted under that  
9 Code, award contracts for goods, services, or equipment to  
10 persons other than the contractor for goods, services, or  
11 equipment not provided for in the public private agreement.

12 Section 55. Planning for the Illiana Expressway project.  
13 The Illiana Expressway project shall be subject to all  
14 applicable planning requirements otherwise required by law,  
15 including land use planning, regional planning, transportation  
16 planning, and environmental compliance requirements.

17 Section 60. Illinois Department of Transportation;  
18 reporting requirements and information requests.

19 (a) The Department shall submit written monthly progress  
20 reports to the Procurement Policy Board and the General  
21 Assembly on the Illiana Expressway project. The report shall  
22 include the status of any public private agreements or other



1 contracting and any ongoing or completed studies. The  
2 Procurement Policy Board may determine the format for the  
3 written monthly progress reports.

4 (b) The Department shall also respond promptly in writing  
5 to all inquiries and comments of the Procurement Policy Board  
6 with respect to any conduct taken by the Department to  
7 implement, execute, or administer the provisions of this Act.

8 (c) Upon request, the Department shall appear and testify  
9 before the Procurement Policy Board and produce information  
10 requested by the Procurement Policy Board.

11 (d) At least 30 days prior to the beginning of the  
12 Department's fiscal year, the Department shall prepare an  
13 annual written progress report on the Illiana Expressway  
14 project. The report shall include the status of any public  
15 private agreements or other contracting and any ongoing or  
16 completed studies. The report shall be delivered to the  
17 Procurement Policy Board and each county, municipality, and  
18 metropolitan planning organization whose territory includes or  
19 lies within 5 miles from a proposed or existing Illiana  
20 Expressway project site.

21 Section 65. Illinois Department of Transportation;  
22 publication requirements.

23 (a) The Department shall publish a notice of the execution  
24 of the public private agreement on its website and in a  
25 newspaper of general circulation within the county or counties

1 whose territory includes or lies within 5 miles from a proposed  
2 or existing Illiana Expressway project site.

3 (b) The Department shall publish the full text of the  
4 public private agreement on its website.

5 Section 70. Electronic toll collection systems. Any  
6 electronic toll collection system used on the Illiana  
7 Expressway must be compatible with the electronic toll  
8 collection system used by the Illinois State Toll Highway  
9 Authority.

10 Section 75. Independent audits. If the public private  
11 agreement provides for the construction of all or part of the  
12 Illiana Expressway project and the estimated construction  
13 costs under the agreement exceed \$50,000,000, the Department  
14 must also require the contractor to finance an independent  
15 audit of any and all traffic and cost estimates associated with  
16 the agreement as well as a review of all public costs and  
17 potential liabilities to which taxpayers could be exposed  
18 (including improvements to other transportation facilities  
19 that may be needed as a result of the agreement, failure by the  
20 contractor to reimburse the Department for services provided,  
21 and potential risk and liability in the event of default on the  
22 agreement or default on other types of financing). The  
23 independent audit must be conducted by an independent  
24 consultant selected by the Department.

1       Section 80. Property acquisition. The Department may  
2       acquire property for the Illiana Expressway project using the  
3       powers granted to it in the Illinois Highway Code. The  
4       Department may not exercise the power of quick take in  
5       connection with the Illiana Expressway project.

6       Section 85. Rights of the Illinois Department of  
7       Transportation upon expiration or termination of the  
8       agreement.

9       (a) Upon the termination or expiration of the public  
10      private agreement, including a termination for default, the  
11      Department shall have the right to take over the Illiana  
12      Expressway project and to succeed to all of the right, title,  
13      and interest in the Illiana Expressway project, subject to any  
14      liens on revenues previously granted by the contractor to any  
15      person providing financing for the Illiana Expressway Project.

16      (b) If the Department elects to take over the Illiana  
17      Expressway project as provided in subsection (a) of this  
18      Section, the Department may, without limitation, do the  
19      following:

20           (1) develop, finance, construct, maintain, or operate  
21      the project, including through another public private  
22      agreement entered into in accordance with this Act; or

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

1           (c) If the Department elects to take over the Illiana  
2 Expressway project as provided in subsection (a) of this  
3 Section, the Department may, without limitation, use the  
4 revenues, if any, for any lawful purpose, including to:

5           (1) make payments to individuals or entities in  
6 connection with any financing of the Illiana Expressway  
7 project;

8           (2) permit a contractor or third party to receive some  
9 or all of the revenues under the public private agreement  
10 entered into under this Act;

11           (3) pay development costs of the Illiana Expressway;

12           (4) pay current operation costs of the Illiana  
13 Expressway; and

14           (5) pay the contractor for any compensation or payment  
15 owing upon termination.

16           (d) All real property acquired as a part of the Illiana  
17 Expressway shall be held in the name of the State of Illinois  
18 upon termination of the Illiana Expressway project.

19           (e) The full faith and credit of the State or any political  
20 subdivision of the State or the Department is not pledged to  
21 secure any financing of the contractor by the election to take  
22 over the Illiana Expressway project. Assumption of development  
23 or operation, or both, of the Illiana Expressway project does  
24 not obligate the State or any political subdivision of the  
25 State or the Department to pay any obligation of the  
26 contractor.

1 Section 90. Standards for the Illiana Expressway project.

2 (a) The plans and specifications for the Illiana Expressway  
3 project must comply with:

4 (1) the Department's standards for other projects of a  
5 similar nature or as otherwise provided in the public  
6 private agreement;

7 (2) the Professional Engineering Practice Act of 1989,  
8 the Structural Engineering Practice Act of 1989, the  
9 Illinois Architecture Practice Act of 1989, and the  
10 Illinois Professional Land Surveyor Act of 1989; and

11 (3) any other applicable State or federal standards.

12 (b) The Illiana Expressway constructed is considered to be  
13 part of the State highway system for purposes of  
14 identification, maintenance standards, and enforcement of  
15 traffic laws under the jurisdiction of the Department. The  
16 Department shall establish performance based standards for  
17 financial documents related to the Illiana Expressway.

18 Section 95. Financial arrangements.

19 (a) The Department may apply for, execute, or endorse  
20 applications submitted by contractors and other third parties  
21 to obtain federal, State, or local credit assistance to  
22 develop, finance, maintain, or operate the Illiana Expressway  
23 project.

24 (b) The Department may take any action to obtain federal,

1 State, or local assistance for the Illiana Expressway project  
2 that serves the public purpose of this Act and may enter into  
3 any contracts required to receive the federal assistance. The  
4 Department may determine that it serves the public purpose of  
5 this Act for all or any portion of the costs of the Illiana  
6 Expressway project to be paid, directly or indirectly, from the  
7 proceeds of a grant or loan, line of credit, or loan guarantee  
8 made by a local, State, or federal government or any agency or  
9 instrumentality of a local, State, or federal government. Such  
10 assistance may include, but not be limited to, federal credit  
11 assistance pursuant to the Transportation Infrastructure  
12 Finance and Innovation Act (TIFIA).

13 (c) The Department may agree to make grants or loans for  
14 the development, financing, construction, management, or  
15 operation of the Illiana Expressway project from time to time,  
16 from amounts received from the federal, State, or local  
17 government or any agency or instrumentality of the federal,  
18 State, or local government.

19 (d) Any financing of the Illiana Expressway project may be  
20 in the amounts and subject to the terms and conditions  
21 contained in the public private agreement.

22 (e) For the purpose of financing the Illiana Expressway  
23 project, the contractor and the Department may do the  
24 following:

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

1 (2) enter into grant agreements;

2 (3) access any other funds available to the Department;

3 and

4 (4) accept grants from any public or private agency or  
5 entity.

6 (f) For the purpose of financing the Illiana Expressway  
7 project, public funds may be used and mixed and aggregated with  
8 funds provided by or on behalf of the contractor or other  
9 private entities.

10 (g) For the purpose of financing the Illiana Expressway  
11 project, the Department is authorized to apply for, execute, or  
12 endorse applications for an allocation of tax-exempt bond  
13 financing authorization provided by Section 142(m) of the  
14 United States Internal Revenue Code, as well as financing  
15 available under any other federal law or program.

16 (h) Any bonds, debt, or other securities or other financing  
17 issued for the purposes of this Act shall not be deemed to  
18 constitute a debt of the State or any political subdivision of  
19 the State or a pledge of the faith and credit of the State or  
20 any political subdivision of the State.

21 Section 100. Labor.

22 (a) The public private agreement shall require the  
23 contractor to enter into a project labor agreement.

24 (b) The public private agreement shall require all  
25 construction contractors to comply with the requirements of

1 Section 30-22 of the Illinois Procurement Code as they apply to  
2 responsible bidders and to present satisfactory evidence of  
3 that compliance to the Department, unless the Illiana  
4 Expressway project is federally funded and the application of  
5 those requirements would jeopardize the receipt or use of  
6 federal funds in support of the Illiana Expressway project.

7 Section 105. Law enforcement.

8 (a) All law enforcement officers of the State and of each  
9 affected local jurisdiction have the same powers and  
10 jurisdiction within the boundaries of the Illiana Expressway as  
11 they have in their respective areas of jurisdiction.

12 (b) Law enforcement officers shall have access to the  
13 Illiana Expressway at any time for the purpose of exercising  
14 the law enforcement officers' powers and jurisdiction.

15 (c) The traffic and motor vehicle laws of the State of  
16 Illinois or, if applicable, any local jurisdiction shall be the  
17 same as those applying to conduct on highways in the State of  
18 Illinois or the local jurisdiction.

19 (d) Punishment for infractions and offenses shall be as  
20 prescribed by law for conduct occurring on highways in the  
21 State of Illinois or the local jurisdiction.

22 Section 110. Term of agreement; reversion of property to  
23 the Department.

24 (a) The Department shall terminate the contractor's



1 authority and duties under the public private agreement on the  
2 date set forth in the public private agreement.

3 (b) Upon termination of the public private agreement, the  
4 authority and duties of the contractor under this Act cease,  
5 except for those duties and obligations that extend beyond the  
6 termination, as set forth in the public private agreement, and  
7 all interests in the Illiana Expressway shall revert to the  
8 Department.

9 Section 115. Additional powers of the Department with  
10 respect to the Illiana Expressway.

11 (a) The Department may exercise any powers provided under  
12 this Act in participation or cooperation with any governmental  
13 entity and enter into any contracts to facilitate that  
14 participation or cooperation. The Department shall cooperate  
15 with other governmental entities under this Act.

16 (b) The Department may make and enter into all contracts  
17 and agreements necessary or incidental to the performance of  
18 the Department's duties and the execution of the Department's  
19 powers under this Act. Except as otherwise required by law,  
20 these contracts or agreements are not subject to any approvals  
21 other than the approval of the Department, Governor, or federal  
22 agencies.

23 (c) The Department may pay the costs incurred under the  
24 public private agreement entered into under this Act from any  
25 funds available to the Department for the purpose of the

1 Illiana Expressway under this Act or any other statute.

2 (d) The Department or other State agency may not take any  
3 action that would impair the public private agreement entered  
4 into under this Act, except as provided by law.

5 (e) The Department may enter into an agreement between and  
6 among the contractor, the Department, and the Department of  
7 State Police concerning the provision of law enforcement  
8 assistance with respect to the Illiana Expressway under this  
9 Act.

10 (f) The Department is authorized to enter into arrangements  
11 with the Illinois State Police related to costs incurred in  
12 providing law enforcement assistance under this Act.

13 Section 120. Prohibited local action; home rule. A unit of  
14 local government, including a home rule unit, may not take any  
15 action that would have the effect of impairing the public  
16 private agreement under this Act. This Section is a denial and  
17 limitation of home rule powers and functions under subsection  
18 (h) of Section 6 of Article VII of the Illinois Constitution.

19 Section 125. Powers liberally construed. The powers  
20 conferred by this Act shall be liberally construed in order to  
21 accomplish their purposes and shall be in addition and  
22 supplemental to the powers conferred by any other law. If any  
23 other law or rule is inconsistent with this Act, this Act is  
24 controlling as to any public private agreement entered into

1 under this Act.

2 Section 130. Full and complete authority. This Act contains  
3 full and complete authority for agreements and leases with  
4 private entities to carry out the activities described in this  
5 Act. Except as otherwise required by law, no procedure,  
6 proceedings, publications, notices, consents, approvals,  
7 orders, or acts by the Department or any other State or local  
8 agency or official are required to enter into an agreement or  
9 lease.

10 Section 135. Severability. The provisions of this Act are  
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 905. The Department of Transportation Law of the  
13 Civil Administrative Code of Illinois is amended by adding  
14 Section 2705-220 as follows:

15 (20 ILCS 2705/2705-220 new)

16 Sec. 2705-220. Public private partnerships for  
17 transportation. The Department may exercise all powers granted  
18 to it under the Public Private Agreements for the Illiana  
19 Expressway Act.

20 Section 910. The Illinois Finance Authority Act is amended  
21 by adding Section 825-105 as follows:

1 (20 ILCS 3501/825-105 new)

2 Sec. 825-105. Illiana Expressway financing. For the  
3 purpose of financing the Illiana Expressway under the Public  
4 Private Agreements for the Illiana Expressway Act, the  
5 Authority is authorized to apply for an allocation of  
6 tax-exempt bond financing authorization provided by Section  
7 142(m) of the United States Internal Revenue Code, as well as  
8 financing available under any other federal law or program.

9 Section 915. The State Finance Act is amended by adding  
10 Section 5.755 as follows:

11 (30 ILCS 105/5.755 new)

12 Sec. 5.755. The Illiana Expressway Proceeds Fund.

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

15 (30 ILCS 550/1.5 new)

16 Sec. 1.5. Public private agreements. This Act applies to  
17 any public private agreement entered into under the Public  
18 Private Agreements for the Illiana Expressway Act.

19 Section 925. The Employment of Illinois Workers on Public  
20 Works Act is amended by adding Section 2.5 as follows:

1 (30 ILCS 570/2.5 new)

2 Sec. 2.5. Public private agreements. This Act applies to  
3 any public private agreement entered into under the Public  
4 Private Agreements for the Illiana Expressway Act.

5 Section 930. 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 Public  
11 Private Agreements for the Illiana Expressway Act.

12 Section 935. 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; Illiana Expressway  
16 public private partnership.

17 (a) Each retailer that makes a qualified sale of building  
18 materials to be incorporated into the Illiana Expressway as  
19 defined in the Public Private Agreements for the Illiana  
20 Expressway Act, by remodeling, rehabilitating, or new  
21 construction, may deduct receipts from those sales when

1 calculating the tax imposed by this Act.

2 (b) As used in this Section, "qualified sale" means a sale  
3 of building materials that will be incorporated into the  
4 Illiana Expressway for which a Certificate of Eligibility for  
5 Sales Tax Exemption has been issued by the Illinois Department  
6 of Transportation, which has authority over the 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 Illinois Department of Transportation, which has  
11 jurisdiction over the project into which the building materials  
12 will be incorporated is located. The Certificate of Eligibility  
13 for Sales Tax Exemption must contain all of the following:

14 (1) statement that the project identified in the  
15 Certificate meets all the requirements of the Illinois  
16 Department of Transportation;

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

18 (3) the signature of the Secretary of the Illinois  
19 Department of Transportation, which has authority over the  
20 Illiana Expressway or the Secretary's delegate.

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

24 (1) a statement that the building materials are being  
25 purchased for incorporation into the Illiana Expressway in  
26 accordance with the Public Private Agreements for the

1 Illiana Expressway Act;

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

4 (3) the name of the project;

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

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

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

9 Section 940. The Property Tax Code is amended by changing  
10 Section 15-55 as follows:

11 (35 ILCS 200/15-55)

12 Sec. 15-55. State property.

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

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

1 to the property of the State.

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

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

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

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

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

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



1           (5) similar public recreational activities conducted  
2           by the Illinois Prairie Path Corporation.

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

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

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

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

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

1 limitations period for reverters.

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

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

1 for reverters, the property must revert back to the Authority.

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

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

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

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

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

1 Illinois for the purpose of developing an airport by the  
2 Department of Transportation shall not be liable for the taxes  
3 thereon. In order for the State to compensate taxing districts  
4 for the leasehold tax under this paragraph the Will County  
5 Supervisor of Assessments shall certify, in writing, to the  
6 Department of Transportation, the amount of leasehold taxes  
7 extended for the 2002 property tax year for each such exempt  
8 parcel. The Department of Transportation shall pay to the Will  
9 County Treasurer, from the Tax Recovery Fund, on or before July  
10 1 of each year, the amount of leasehold taxes for each such  
11 exempt parcel as certified by the Will County Supervisor of  
12 Assessments. The tax compensation shall terminate on December  
13 31, 2020. It is the duty of the Department of Transportation to  
14 file with the Office of the Will County Supervisor of  
15 Assessments an affidavit stating the termination date for  
16 rental of each such parcel due to airport construction. The  
17 affidavit shall include the property identification number for  
18 each such parcel. In no instance shall tax compensation for  
19 property owned by the State be deemed delinquent or bear  
20 interest. In no instance shall a lien attach to the property of  
21 the State. In no instance shall the State be required to pay  
22 leasehold tax compensation in excess of the Tax Recovery Fund's  
23 balance.

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

26 (f) Notwithstanding anything to the contrary in this Code,

1 all property owned by the State that is the Illiana Expressway,  
2 as defined as in the Public Private Agreements for the Illiana  
3 Expressway Act and that is used for transportation purposes and  
4 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; 96-192, eff. 8-10-09.)

9 Section 945. The Prevailing Wage Act is amended by changing  
10 Section 2 as follows:

11 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

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

18 As used in this Act, unless the context indicates  
19 otherwise:

20 "Public works" means all fixed works constructed or  
21 demolished by any public body, or paid for wholly or in part  
22 out of public funds. "Public works" as defined herein includes  
23 all projects financed in whole or in part with bonds, grants,  
24 loans, or other funds made available by or through the State or

1 any of its political subdivisions, including but not limited  
2 to: bonds issued under the Industrial Project Revenue Bond Act  
3 (Article 11, Division 74 of the Illinois Municipal Code), the  
4 Industrial Building Revenue Bond Act, the Illinois Finance  
5 Authority Act, the Illinois Sports Facilities Authority Act, or  
6 the Build Illinois Bond Act; loans or other funds made  
7 available pursuant to the Build Illinois Act; or funds from the  
8 Fund for Illinois' Future under Section 6z-47 of the State  
9 Finance Act, funds for school construction under Section 5 of  
10 the General Obligation Bond Act, funds authorized under Section  
11 3 of the School Construction Bond Act, funds for school  
12 infrastructure under Section 6z-45 of the State Finance Act,  
13 and funds for transportation purposes under Section 4 of the  
14 General Obligation Bond Act. "Public works" also includes (i)  
15 all projects financed in whole or in part with funds from the  
16 Department of Commerce and Economic Opportunity under the  
17 Illinois Renewable Fuels Development Program Act for which  
18 there is no project labor agreement and (ii) all work performed  
19 pursuant to a public private agreement under the Public Private  
20 Agreements for the Illiana Expressway Act. "Public works" also  
21 includes all projects at leased facility property used for  
22 airport purposes under Section 35 of the Local Government  
23 Facility Lease Act. "Public works" also includes the  
24 construction of a new wind power facility by a business  
25 designated as a High Impact Business under Section 5.5(a)(3)(E)  
26 of the Illinois Enterprise Zone Act. "Public works" does not

1 include work done directly by any public utility company,  
2 whether or not done under public supervision or direction, or  
3 paid for wholly or in part out of public funds. "Public works"  
4 does not include projects undertaken by the owner at an  
5 owner-occupied single-family residence or at an owner-occupied  
6 unit of a multi-family residence.

7 "Construction" means all work on public works involving  
8 laborers, workers or mechanics. This includes any maintenance,  
9 repair, assembly, or disassembly work performed on equipment  
10 whether owned, leased, or rented.

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

24 "Public body" means the State or any officer, board or  
25 commission of the State or any political subdivision or  
26 department thereof, or any institution supported in whole or in

1 part by public funds, and includes every county, city, town,  
2 village, township, school district, irrigation, utility,  
3 reclamation improvement or other district and every other  
4 political subdivision, district or municipality of the state  
5 whether such political subdivision, municipality or district  
6 operates under a special charter or not.

7 The terms "general prevailing rate of hourly wages",  
8 "general prevailing rate of wages" or "prevailing rate of  
9 wages" when used in this Act mean the hourly cash wages plus  
10 fringe benefits for training and apprenticeship programs  
11 approved by the U.S. Department of Labor, Bureau of  
12 Apprenticeship and Training, health and welfare, insurance,  
13 vacations and pensions paid generally, in the locality in which  
14 the work is being performed, to employees engaged in work of a  
15 similar character on public works.

16 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,  
17 eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

18 Section 999. Effective date. This Act takes effect upon  
19 becoming law."