



Sen. Heather A. Steans

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09700SB3216sam001

LRB097 19289 HEP 67722 a

1 AMENDMENT TO SENATE BILL 3216

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3216 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding  
5 Section 5.811 as follows:

6 (30 ILCS 105/5.811 new)

7 Sec. 5.811. The Public-Private Partnerships for  
8 Transportation Fund.

9 Section 10. The Public-Private Partnerships for  
10 Transportation Act is amended by changing Sections 10, 15, 20,  
11 25, 35, 40, and 45 and by adding Section 90 as follows:

12 (630 ILCS 5/10)

13 Sec. 10. Definitions. As used in this Act:

14 "Approved proposal" means the proposal that is approved by

1 the transportation agency pursuant to subsection (j) ~~(e)~~ of  
2 Section 20 of this Act.

3 "Approved proposer" means the private entity whose  
4 proposal is the approved proposal.

5 "Authority" means the Illinois State Toll Highway  
6 Authority.

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

10 "Department" means the Illinois Department of  
11 Transportation.

12 "Design-build agreement" means the agreement between the  
13 selected private entity and the transportation agency under  
14 which the selected private entity agrees to furnish design,  
15 construction, and related services for a transportation  
16 facility under this Act.

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

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

24 "Metropolitan planning organization" means a metropolitan  
25 planning organization designated under 23 U.S.C. Section 134  
26 whose metropolitan planning area boundaries are partially or

1 completely within the State.

2 "Operate" or "operation" means to do one or more of the  
3 following: maintain, improve, equip, modify, or otherwise  
4 operate.

5 "Private entity" means any combination of one or more  
6 individuals, corporations, general partnerships, limited  
7 liability companies, limited partnerships, joint ventures,  
8 business trusts, nonprofit entities, or other business  
9 entities that are parties to a proposal for a transportation  
10 project or an agreement related to a transportation project. A  
11 public agency may provide services to a contractor as a  
12 subcontractor or subconsultant without affecting the private  
13 status of the private entity and the ability to enter into a  
14 public-private agreement. A transportation agency is not a  
15 private entity.

16 "Proposal" means all materials and documents prepared by or  
17 on behalf of a private entity relating to the proposed  
18 development, financing, or operation of a transportation  
19 facility as a transportation project.

20 "Proposer" means a private entity that has submitted a  
21 proposal or statement of qualifications for a public-private  
22 agreement in response to a request for proposals or a request  
23 for qualifications issued by a transportation agency under this  
24 Act.

25 "Public-private agreement" means the public-private  
26 agreement between the contractor and the transportation agency

1 relating to one or more of the development, financing, or  
2 operation of a transportation project that is entered into  
3 under this Act.

4 "Request for information" means all materials and  
5 documents prepared by or on behalf of the transportation agency  
6 to solicit information from private entities with respect to  
7 transportation projects.

8 "Request for proposals" means all materials and documents  
9 prepared by or on behalf of the transportation agency to  
10 solicit proposals from private entities to enter into a  
11 public-private agreement.

12 "Request for qualifications" means all materials and  
13 documents prepared by or on behalf of the transportation agency  
14 to solicit statements of qualification from private entities to  
15 enter into a public-private agreement.

16 "Revenues" means all revenues, including any combination  
17 of: income; earnings and interest; user fees; lease payments;  
18 allocations; federal, State, and local appropriations, grants,  
19 loans, lines of credit, and credit guarantees; bond proceeds;  
20 equity investments; service payments; or other receipts;  
21 arising out of or in connection with a transportation project,  
22 including the development, financing, and operation of a  
23 transportation project. The term includes money received as  
24 grants, loans, lines of credit, credit guarantees, or otherwise  
25 in aid of a transportation project from the federal government,  
26 the State, a unit of local government, or any agency or

1 instrumentality of the federal government, the State, or a unit  
2 of local government.

3 "Shortlist" means the process by which a transportation  
4 agency will review, evaluate, and rank statements of  
5 qualifications submitted in response to a request for  
6 qualifications and then identify the proposers who are eligible  
7 to submit a detailed proposal in response to a request for  
8 proposals. The identified proposers constitute the shortlist  
9 for the transportation project to which the request for  
10 proposals relates.

11 "Transportation agency" means (i) the Department or (ii)  
12 the Authority.

13 "Transportation facility" means any new or existing road,  
14 highway, toll highway, bridge, tunnel, intermodal facility,  
15 intercity or high-speed passenger rail, or other  
16 transportation facility or infrastructure, excluding airports,  
17 under the jurisdiction of the Department or the Authority,  
18 except those facilities for the Illiana Expressway. The term  
19 "transportation facility" may refer to one or more  
20 transportation facilities that are proposed to be developed or  
21 operated as part of a single transportation project.

22 "Transportation project" or "project" means any or the  
23 combination of the development, financing, or operation with  
24 respect to all or a portion of any transportation facility  
25 under the jurisdiction of the transportation agency, except  
26 those facilities for the Illiana Expressway, undertaken

1 pursuant to this Act.

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

6 "User fees" or "tolls" means the rates, tolls, fees, or  
7 other charges imposed by the contractor for use of all or a  
8 portion of a transportation project under a public-private  
9 agreement.

10 (Source: P.A. 97-502, eff. 8-23-11.)

11 (630 ILCS 5/15)

12 Sec. 15. Formation of public-private agreements; project  
13 planning.

14 (a) Each transportation agency may exercise the powers  
15 granted by this Act to do some or all to develop, finance, and  
16 operate any part of one or more transportation projects through  
17 public-private agreements with one or more private entities,  
18 except for transportation projects for the Illiana Expressway  
19 as defined in the Public Private Agreements for the Illiana  
20 Expressway Act. The net proceeds, if any, arising out of a  
21 transportation project or public-private agreement undertaken  
22 by the Department pursuant to this Act shall be deposited into  
23 the Public-Private Partnerships for Transportation ~~State~~  
24 ~~Construction Account~~ Fund. The net proceeds arising out of a  
25 transportation project or public-private agreement undertaken

1 by the Authority pursuant to this Act shall be deposited into  
2 the Illinois State Toll Highway Authority Fund and shall be  
3 used only as authorized by Section 23 of the Toll Highway Act.

4 (b) The Authority shall not enter into a public-private  
5 agreement involving a lease or other transfer of any toll  
6 highway, or portions thereof, under the Authority's  
7 jurisdiction which were open to vehicular traffic on the  
8 effective date of this Act. The Authority shall not enter into  
9 a public-private agreement for the purpose of making roadway  
10 improvements, including but not limited to reconstruction,  
11 adding lanes, and adding ramps, to any toll highway, or  
12 portions thereof, under the Authority's jurisdiction which  
13 were open to vehicular traffic on the effective date of this  
14 Act. The Authority shall not use any revenue generated by any  
15 toll highway, or portions thereof, under the Authority's  
16 jurisdiction which were open to vehicular traffic on the  
17 effective date of this Act to enter into or provide funding for  
18 a public-private agreement. The Authority shall not use any  
19 asset, or the proceeds from the sale or lease of any such  
20 asset, which was owned by the Authority on the effective date  
21 of this Act to enter into or provide funding for a  
22 public-private agreement. The Authority may enter into a  
23 public-private partnership to develop, finance, and operate  
24 new toll highways authorized by the Governor and the General  
25 Assembly pursuant to Section 14.1 of the Toll Highway Act,  
26 non-highway transportation projects on the toll highway system

1 such as commuter rail or high-speed rail lines, and intelligent  
2 transportation infrastructure that will enhance the safety,  
3 efficiency, and environmental quality of the toll highway  
4 system. The Authority may operate or provide operational  
5 services such as toll collection on highways which are  
6 developed or financed, or both, through a public-private  
7 agreement entered into by another public entity, under an  
8 agreement with the public entity or contractor responsible for  
9 the transportation project.

10 (c) A contractor has:

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

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

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

20 (d) Each year, at least 30 days prior to the beginning of  
21 the transportation agency's fiscal year, and at other times the  
22 transportation agency deems necessary, the Department and the  
23 Authority shall submit for review to the General Assembly a  
24 description of potential projects that the transportation  
25 agency is considering undertaking under this Act. Any  
26 submission from the Authority shall indicate which of its



1 potential projects, if any, will involve the proposer operating  
2 the transportation facility for a period of one year or more.  
3 Prior to the issuance of any request for qualifications or  
4 request for proposals with respect to any potential project  
5 undertaken by the Department or the Authority pursuant to  
6 Section 20 of this Act, the commencement of a procurement  
7 process for that particular potential project shall be  
8 authorized by joint resolution of the General Assembly.

9 (e) Each year, at least 30 days prior to the beginning of  
10 the transportation agency's fiscal year, the transportation  
11 agency shall submit a description of potential projects that  
12 the transportation agency is considering undertaking under  
13 this Act to each county, municipality, and metropolitan  
14 planning organization, with respect to each project located  
15 within its boundaries.

16 (f) Any project undertaken under this Act shall be subject  
17 to all applicable planning requirements otherwise required by  
18 law, including land use planning, regional planning,  
19 transportation planning, and environmental compliance  
20 requirements.

21 (g) Any new transportation facility developed as a project  
22 under this Act must be consistent with the regional plan then  
23 in existence of any metropolitan planning organization in whose  
24 boundaries the project is located.

25 (h) The transportation agency shall hold one or more public  
26 hearings within 30 days of each of its submittals to the

1 General Assembly under subsection (d) of this Section. These  
2 public hearings shall address potential projects that the  
3 transportation agency submitted to the General Assembly for  
4 review under subsection (d). The transportation agency shall  
5 publish a notice of the hearing or hearings at least 7 days  
6 before a hearing takes place, and shall include the following  
7 in the notice: (i) the date, time, and place of the hearing and  
8 the address of the transportation agency; (ii) a brief  
9 description of the potential projects that the transportation  
10 agency is considering undertaking; and (iii) a statement that  
11 the public may comment on the potential projects.

12 (Source: P.A. 97-502, eff. 8-23-11.)

13 (630 ILCS 5/20)

14 Sec. 20. Procurement process.

15 (a) A transportation agency seeking to enter into a  
16 public-private partnership with a private entity for the  
17 development, finance, and operation of a transportation  
18 facility as a transportation project shall determine and set  
19 forth the criteria for the selection process. The  
20 transportation agency shall use (i) a competitive sealed  
21 bidding process, (ii) a competitive sealed proposal process, or  
22 (iii) a design-build procurement process in accordance with  
23 Section 25 of this Act. Before using one of these processes the  
24 transportation agency may use a request for information to  
25 obtain information relating to possible public-private

1 partnerships.

2 (b) If a transportation project will require the  
3 performance of design work, the transportation agency shall use  
4 the shortlist selection process set forth in subsection (g) of  
5 this Section to evaluate and shortlist private entities based  
6 on qualifications, including but not limited to design  
7 qualifications.

8 A request for qualifications, request for proposals, or  
9 public-private agreement awarded to a contractor for a  
10 transportation project shall require that any subsequent need  
11 for architectural, engineering, or land surveying services  
12 which arises after the submittal of the request for  
13 qualifications or request for proposals or the awarding of the  
14 public-private agreement shall be procured by the contractor  
15 using a qualifications-based selection process consisting of:

16 (1) the publication of notice of availability of  
17 services;

18 (2) a statement of desired qualifications;

19 (3) an evaluation based on the desired qualifications;

20 (4) the development of a shortlist ranking the firms in  
21 order of qualifications; and

22 (5) negotiations with the ranked firms for a fair and  
23 reasonable fee.

24 Compliance with the Architectural, Engineering, and Land  
25 Surveying Qualifications Based Selection Act shall be deemed  
26 prima facie compliance with this subsection (b). Every

1 transportation project contract shall include provisions  
2 setting forth the requirements of this subsection (b).

3 (c) Prior to commencing a procurement for a transportation  
4 project under this Act, the transportation agency shall notify  
5 any other applicable public agency, including the Authority, in  
6 all cases involving toll facilities where the Department would  
7 commence the procurement, of its interest in undertaking the  
8 procurement and shall provide the other public agency or  
9 agencies with an opportunity to offer to develop and implement  
10 the transportation project. The transportation agency shall  
11 supply the other public agency or agencies with no less than  
12 the same level and type of information concerning the project  
13 that the transportation agency would supply to private entities  
14 in the procurement, unless that information is not then  
15 available, in which case the transportation agency shall supply  
16 the other public agency or agencies with the maximum amount of  
17 relevant information about the project as is then reasonably  
18 available. The transportation agency shall make available to  
19 the other public agencies the same subsidies, benefits,  
20 concessions, and other consideration that it intends to make  
21 available to the private entities in the procurement.

22 The public agencies shall have a maximum period of 60 days  
23 to review the information about the proposed transportation  
24 project and to respond to the transportation agency in writing  
25 to accept or reject the opportunity to develop and implement  
26 the transportation project. If a public agency rejects the

1 opportunity during the 60-day period, then the public agency  
2 may not participate in the procurement for the proposed  
3 transportation project by submitting a proposal of its own. If  
4 a public agency fails to accept or reject this opportunity in  
5 writing within the 60-day period, it shall be deemed to have  
6 rejected the opportunity.

7 If a public agency accepts the opportunity within the  
8 60-day period, then the public agency shall have up to 120 days  
9 (or a longer period, if extended by the transportation agency),  
10 to (i) submit to the transportation agency a reasonable plan  
11 for development of the transportation project; (ii) if  
12 applicable, make an offer of reasonable consideration for the  
13 opportunity to undertake the transportation project; and (iii)  
14 negotiate a mutually acceptable intergovernmental agreement  
15 with the transportation agency that facilitates the  
16 development of the transportation project and requires that the  
17 transportation agency follow its procurement procedures under  
18 the Illinois Procurement Code and applicable rules rather than  
19 this Act. In considering whether a public agency's plan for  
20 developing and implementing the project is reasonable, the  
21 transportation agency shall consider the public agency's  
22 history of developing and implementing similar projects, the  
23 public agency's current capacity to develop and implement the  
24 proposed project, the user charges, if any, contemplated by the  
25 public agency's plan and how these user charges compare with  
26 user charges that would be imposed by a private entity

1 developing and implementing the same project, the project  
2 delivery schedule proposed by the public agency, and other  
3 reasonable factors that are necessary, including consideration  
4 of risks and whether subsidy costs may be reduced, to determine  
5 whether development and implementation of the project by the  
6 public agency is in the best interest of the people of this  
7 State.

8 (d) If the transportation agency rejects or fails to  
9 negotiate mutually acceptable terms regarding a public  
10 agency's plan for developing and implementing the  
11 transportation project during the 120-day period described in  
12 subsection (c), then the public agency may not participate in  
13 the procurement for the proposed transportation project by  
14 submitting a proposal of its own. Following a rejection or  
15 failure to reach agreement regarding a public agency's plan, if  
16 the transportation agency later proceeds with a procurement in  
17 which it materially changes (i) the nature or scope of the  
18 project; (ii) any subsidies, benefits, concessions, or other  
19 significant project-related considerations made available to  
20 the bidders; or (iii) any other terms of the project, as  
21 compared to when the transportation agency supplied  
22 information about the project to public agencies under  
23 subsection (c), then the transportation agency shall give  
24 public agencies another opportunity in accordance with  
25 subsection (c) to provide proposals for developing and  
26 implementing the project.

1        (e) Nothing in this Section 20 requires a transportation  
2 agency to go through a procurement process prior to developing  
3 and implementing a project through a public agency as described  
4 in subsection (c).

5        ~~The selection of professional design firms by a~~  
6 ~~transportation agency or private entity shall comply with the~~  
7 ~~Architectural, Engineering, and Land Surveying Qualifications~~  
8 ~~Based Selection Act or Section 25 of this Act.~~

9        ~~Nothing in this Act shall preclude a public agency,~~  
10 ~~including the Department or the Authority, from submitting a~~  
11 ~~proposal to develop or operate, or to develop and operate, a~~  
12 ~~transportation facility as a transportation project. The~~  
13 ~~transportation agency shall give a proposal submitted by a~~  
14 ~~public agency equal consideration as it gives proposals~~  
15 ~~submitted by private entities, and, for that purpose, treat the~~  
16 ~~public agency as a private entity.~~

17        (f) All procurement processes shall incorporate  
18 requirements and set forth goals for participation by  
19 disadvantaged business enterprises as allowed under State and  
20 federal law.

21        (g) ~~(b)~~ The transportation agency shall establish a process  
22 to shortlist ~~for prequalification of all~~ potential private  
23 entities. The transportation agency shall: (i) provide a public  
24 notice of the shortlisting ~~prequalification~~ process for such  
25 period as deemed appropriate by the agency; (ii) set forth  
26 requirements and evaluation criteria in a request for

1 ~~qualifications~~ ~~order to become prequalified~~; (iii) develop a  
2 shortlist by determining ~~determine~~ which private entities that  
3 have submitted statements of qualification ~~prequalification~~  
4 ~~applications~~, if any, meet the minimum requirements and best  
5 satisfy the evaluation criteria set forth in the request for  
6 qualifications; and (iv) allow only those entities, or groups  
7 of entities such as unincorporated joint ventures, that have  
8 been shortlisted ~~prequalified~~ to submit proposals or bids.  
9 Throughout the procurement period and as necessary following  
10 the award of a contract, the ~~The~~ transportation agency shall  
11 make publicly available on its website ~~during the request for~~  
12 ~~qualifications period~~ information regarding firms that are  
13 prequalified by the transportation agency pursuant to Section  
14 20 of the Architectural, Engineering, and Land Surveying  
15 Qualifications Based Selection Act to provide architectural,  
16 engineering, and land surveying services. The transportation  
17 agencies ~~and~~ shall require private entities to use firms  
18 prequalified under this Act to provide architectural,  
19 engineering, and land surveying services. Firms identified to  
20 provide architectural, engineering, and land surveying  
21 services in a statement of qualifications shall be prequalified  
22 under the Act to provide the identified services prior to the  
23 transportation agency's award of the contract ~~the use of such~~  
24 ~~firms for such services.~~

25 (h) ~~(e)~~ Competitive sealed bidding requirements:

26 (1) All contracts shall be awarded by competitive



1 sealed bidding except as otherwise provided in subsection  
2 (i) ~~(d)~~ of this Section and Section 25 of this Act.

3 (2) An invitation for bids shall be issued and shall  
4 include a description of the public-private partnership  
5 with a private entity for the development, finance, and  
6 operation of a transportation facility as a transportation  
7 project, and the material contractual terms and conditions  
8 applicable to the procurement.

9 (3) Public notice of the invitation for bids shall be  
10 published in the State of Illinois Procurement Bulletin at  
11 least 21 days before the date set in the invitation for the  
12 opening of bids.

13 (4) Bids shall be opened publicly in the presence of  
14 one or more witnesses at the time and place designated in  
15 the invitation for bids. The name of each bidder, the  
16 amount of each bid, and other relevant information as may  
17 be specified by rule shall be recorded. After the award of  
18 the contract, the winning bid and the record of each  
19 unsuccessful bid shall be open to public inspection.

20 (5) Bids shall be unconditionally accepted without  
21 alteration or correction, except as authorized in this Act.  
22 Bids shall be evaluated based on the requirements set forth  
23 in the invitation for bids, which may include criteria to  
24 determine acceptability such as inspection, testing,  
25 quality, workmanship, delivery, and suitability for a  
26 particular purpose. Those criteria that will affect the bid

1 price and be considered in evaluation for award, such as  
2 discounts, transportation costs, and total or life cycle  
3 costs, shall be objectively measurable. The invitation for  
4 bids shall set forth the evaluation criteria to be used.

5 (6) Correction or withdrawal of inadvertently  
6 erroneous bids before or after award, or cancellation of  
7 awards of contracts based on bid mistakes, shall be  
8 permitted in accordance with rules. After bid opening, no  
9 changes in bid prices or other provisions of bids  
10 prejudicial to the interest of the State or fair  
11 competition shall be permitted. All decisions to permit the  
12 correction or withdrawal of bids based on bid mistakes  
13 shall be supported by written determination made by the  
14 transportation agency.

15 (7) The contract shall be awarded with reasonable  
16 promptness by written notice to the lowest responsible and  
17 responsive bidder whose bid meets the requirements and  
18 criteria set forth in the invitation for bids, except when  
19 the transportation agency determines it is not in the best  
20 interest of the State and by written explanation determines  
21 another bidder shall receive the award. The explanation  
22 shall appear in the appropriate volume of the State of  
23 Illinois Procurement Bulletin. The written explanation  
24 must include:

25 (A) a description of the agency's needs;

26 (B) a determination that the anticipated cost will

1 be fair and reasonable;

2 (C) a listing of all responsible and responsive  
3 bidders; and

4 (D) the name of the bidder selected, pricing, and  
5 the reasons for selecting that bidder.

6 (8) When it is considered impracticable to initially  
7 prepare a purchase description to support an award based on  
8 price, an invitation for bids may be issued requesting the  
9 submission of unpriced offers to be followed by an  
10 invitation for bids limited to those bidders whose offers  
11 have been qualified under the criteria set forth in the  
12 first solicitation.

13 (i) ~~(d)~~ Competitive sealed proposal requirements:

14 (1) When the transportation agency determines in  
15 writing that the use of competitive sealed bidding or  
16 design-build procurement is either not practicable or not  
17 advantageous to the State, a contract may be entered into  
18 by competitive sealed proposals.

19 (2) Proposals shall be solicited through a request for  
20 proposals.

21 (3) Public notice of the request for proposals shall be  
22 published in the State of Illinois Procurement Bulletin at  
23 least 21 days before the date set in the invitation for the  
24 opening of proposals.

25 (4) Proposals shall be opened publicly in the presence  
26 of one or more witnesses at the time and place designated

1 in the request for proposals, but proposals shall be opened  
2 in a manner to avoid disclosure of contents to competing  
3 offerors during the process of negotiation. A record of  
4 proposals shall be prepared and shall be open for public  
5 inspection after contract award.

6 (5) The requests for proposals shall state the relative  
7 importance of price and other evaluation factors.  
8 Proposals shall be submitted in 2 parts: (i) covering items  
9 except price; and (ii) covering price. The first part of  
10 all proposals shall be evaluated and ranked independently  
11 of the second part of all proposals.

12 (6) As provided in the request for proposals and under  
13 any applicable rules, discussions may be conducted with  
14 responsible offerors who submit proposals determined to be  
15 reasonably susceptible of being selected for award for the  
16 purpose of clarifying and assuring full understanding of  
17 and responsiveness to the solicitation requirements. Those  
18 offerors shall be accorded fair and equal treatment with  
19 respect to any opportunity for discussion and revision of  
20 proposals. Revisions may be permitted after submission and  
21 before award for the purpose of obtaining best and final  
22 offers. In conducting discussions there shall be no  
23 disclosure of any information derived from proposals  
24 submitted by competing offerors. If information is  
25 disclosed to any offeror, it shall be provided to all  
26 competing offerors.

1           (7) Awards shall be made to the responsible offeror  
2           whose proposal is determined in writing to be the most  
3           advantageous to the State, taking into consideration price  
4           and the evaluation factors set forth in the request for  
5           proposals. The contract file shall contain the basis on  
6           which the award is made.

7           (j) ~~(e)~~ In the case of a proposal or proposals to the  
8           Department or the Authority, the transportation agency shall  
9           determine, based on its review and evaluation of the proposal  
10          or proposals received in response to the request for proposals,  
11          which one or more proposals, if any, best serve the public  
12          purpose of this Act and satisfy the criteria set forth in the  
13          request for proposals and, with respect to such proposal or  
14          proposals, shall:

15               (1) submit the proposal or proposals to the Commission  
16               on Government Forecasting and Accountability, which,  
17               within 20 days of submission by the transportation agency,  
18               shall complete a review of the proposal or proposals and  
19               report on the value of the proposal or proposals to the  
20               State;

21               (2) hold one or more public hearings on the proposal or  
22               proposals, publish notice of the hearing or hearings at  
23               least 7 days before the hearing, and include the following  
24               in the notice: (i) the date, time, and place of the hearing  
25               and the address of the transportation agency, (ii) the  
26               subject matter of the hearing, (iii) a description of the

1 agreement to be awarded, (iv) the determination made by the  
2 transportation agency that such proposal or proposals best  
3 serve the public purpose of this Act and satisfy the  
4 criteria set forth in the request for proposals, and (v)  
5 that the public may be heard on the proposal or proposals  
6 during the public hearing; and

7 (3) determine whether or not to recommend to the  
8 Governor that the Governor approve the proposal or  
9 proposals.

10 The Governor may approve one or more proposals recommended  
11 by the Department or the Authority based upon the review,  
12 evaluation, and recommendation of the transportation agency,  
13 the review and report of the Commission on Government  
14 Forecasting and Accountability, the public hearing, and the  
15 best interests of the State.

16 (k) ~~(f)~~ In addition to any other rights under this Act, in  
17 connection with any procurement under this Act, the following  
18 rights are reserved to each transportation agency:

19 (1) to withdraw a request for information, a request  
20 for qualifications, or a request for proposals at any time,  
21 and to publish a new request for information, request for  
22 qualifications, or request for proposals;

23 (2) to not approve a proposal for any reason;

24 (3) to not award a public-private agreement for any  
25 reason;

26 (4) to request clarifications to any statement of

1 information, qualifications, or proposal received, to seek  
2 one or more revised proposals or one or more best and final  
3 offers, or to conduct negotiations with one or more private  
4 entities that have submitted proposals;

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

10 (6) to interview proposers; and

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

13 (l) ~~(g)~~ If a proposal is approved, the transportation  
14 agency shall execute the public-private agreement, publish  
15 notice of the execution of the public-private agreement on its  
16 website and in a newspaper or newspapers of general circulation  
17 within the county or counties in which the transportation  
18 project is to be located, and publish the entire agreement on  
19 its website. Any action to contest the validity of a  
20 public-private agreement entered into under this Act must be  
21 brought no later than 60 days after the date of publication of  
22 the notice of execution of the public-private agreement.

23 (m) ~~(h)~~ For any transportation project with an estimated  
24 construction cost of over \$50,000,000, the transportation  
25 agency may also require the approved proposer to pay the costs  
26 for an independent audit of any and all traffic and cost

1 estimates associated with the approved proposal, as well as a  
2 review of all public costs and potential liabilities to which  
3 taxpayers could be exposed (including improvements to other  
4 transportation facilities that may be needed as a result of the  
5 approved proposal, failure by the approved proposer to  
6 reimburse the transportation agency for services provided, and  
7 potential risk and liability in the event the approved proposer  
8 defaults on the public-private agreement or on bonds issued for  
9 the project). If required by the transportation agency, this  
10 independent audit must be conducted by an independent  
11 consultant selected by the transportation agency, and all  
12 information from the review must be fully disclosed.

13 (n) ~~(i)~~ The transportation agency may also apply for,  
14 execute, or endorse applications submitted by private entities  
15 to obtain federal credit assistance for qualifying projects  
16 developed or operated pursuant to this Act.

17 (Source: P.A. 97-502, eff. 8-23-11.)

18 (630 ILCS 5/25)

19 Sec. 25. Design-build procurement.

20 (a) This Section 25 shall apply only to transportation  
21 projects for which the Department or the Authority intends to  
22 execute a design-build agreement, in which case the Department  
23 or the Authority shall abide by the requirements and procedures  
24 of this Section 25 in addition to other applicable requirements  
25 and procedures set forth in this Act.



1 (b) (1) The transportation agency must issue a notice of  
2 intent to receive proposals for the project at least 14 days  
3 before issuing the request for the qualifications. The  
4 transportation agency must publish the advance notice in a  
5 daily newspaper of general circulation in the county where the  
6 transportation agency is located. The transportation agency is  
7 encouraged to use publication of the notice in related  
8 construction industry service publications. A brief  
9 description of the proposed procurement must be included in the  
10 notice. The transportation agency must provide a copy of the  
11 request for qualifications to any party requesting a copy.

12 (2) The request for qualifications shall be prepared for  
13 each project and must contain, without limitation, the  
14 following information: (i) the name of the transportation  
15 agency; (ii) a preliminary schedule for the completion of the  
16 contract; (iii) the proposed budget for the project and the  
17 source of funds, to the extent not already reflected in the  
18 Department's Multi-Year Highway Improvement Program ~~and the~~  
19 ~~currently available funds at the time the request for proposal~~  
20 ~~is submitted~~; (iv) the shortlisting process ~~prequalification~~  
21 ~~criteria~~ for ~~design-build~~ entities or groups of entities such  
22 as unincorporated joint ventures wishing to submit proposals  
23 (the transportation agency shall include, at a minimum, its  
24 normal prequalification, licensing, registration, and other  
25 requirements, but nothing contained herein precludes the use of  
26 additional ~~prequalification~~ criteria by the transportation

1 agency); (v) a summary of anticipated material requirements of  
2 the contract, including but not limited to, the proposed terms  
3 and conditions, required performance and payment bonds,  
4 insurance, and the ~~entity's plan to comply with the~~ utilization  
5 goals established by the ~~corporate authorities of the~~  
6 transportation agency for minority and women business  
7 enterprises and compliance ~~to comply~~ with Section 2-105 of the  
8 Illinois Human Rights Act; and (vi) ~~the performance criteria;~~  
9 ~~(vii) the evaluation criteria for each phase of the~~  
10 ~~solicitation; and (viii) the~~ anticipated number of entities  
11 that will be shortlisted ~~considered~~ for the request for  
12 proposals phase.

13 (3) The transportation agency may include any other  
14 relevant information in the request for qualifications that it  
15 chooses to supply. The private entity shall be entitled to rely  
16 upon the accuracy of this documentation in the development of  
17 its statement of qualifications and its proposal only to the  
18 extent expressly warranted by the transportation agency.

19 (4) The date that statements of qualifications are due must  
20 be at least 21 calendar days after the date of the issuance of  
21 the request for qualifications. In the event the cost of the  
22 project is estimated to exceed \$12,000,000, then the statement  
23 of qualifications due date must be at least 28 calendar days  
24 after the date of the issuance of the request for  
25 qualifications. The transportation agency shall include in the  
26 request for proposals a minimum of 30 days to develop the

1 proposals after the selection of entities from the evaluation  
2 of the statements of qualifications is completed.

3 (c)(1) The transportation agency shall develop, with the  
4 assistance of a licensed design professional, the request for  
5 qualifications and the request for proposals, which shall  
6 include scope and performance criteria. The scope and  
7 performance criteria must be in sufficient detail and contain  
8 adequate information to reasonably apprise the private  
9 entities of the transportation agency's overall programmatic  
10 needs and goals, including criteria and preliminary design  
11 plans, general budget parameters, schedule, and delivery  
12 requirements.

13 (2) Each request for qualifications and request for  
14 proposals shall also include a description of the level of  
15 design to be provided in the proposals. This description must  
16 include the scope and type of renderings, drawings, and  
17 specifications that, at a minimum, will be required by the  
18 transportation agency to be produced by the private entities.

19 (3) The scope and performance criteria shall be prepared by  
20 a design professional who is an employee of the transportation  
21 agency, or the transportation agency may contract with an  
22 independent design professional selected under the  
23 Architectural, Engineering, and Land Surveying Qualifications  
24 Based Selection Act to provide these services.

25 (4) The design professional that prepares the scope and  
26 performance criteria is prohibited from participating in any

1 private entity proposal for the project.

2 (d) (1) The transportation agency must use a two phase  
3 procedure for the selection of the successful design-build  
4 entity. The request for qualifications phase will evaluate and  
5 shortlist the private entities based on qualifications, and the  
6 request for proposals will evaluate the technical and cost  
7 proposals.

8 (2) The transportation agency shall include in the request  
9 for qualifications the evaluating factors to be used in the  
10 request for qualifications phase. These factors are in addition  
11 to any prequalification requirements of private entities that  
12 the transportation agency has set forth. Each request for  
13 qualifications shall establish the relative importance  
14 assigned to each evaluation factor ~~and subfactor~~, including any  
15 weighting of criteria to be employed by the transportation  
16 agency. The transportation agency must maintain a record of the  
17 evaluation scoring to be disclosed in event of a protest  
18 regarding the solicitation.

19 The transportation agency shall include the following  
20 criteria in every request for qualifications phase evaluation  
21 of private entities: (i) experience of personnel; (ii)  
22 successful experience with similar project types; (iii)  
23 financial capability; (iv) timeliness of past performance; (v)  
24 experience with similarly sized projects; (vi) successful  
25 reference checks of the firm; (vii) commitment to assign  
26 personnel for the duration of the project and qualifications of

1 the entity's consultants; and (viii) ability or past  
2 performance in meeting or exhausting good faith efforts to meet  
3 the utilization goals for business enterprises established in  
4 the Business Enterprise for Minorities, Females, and Persons  
5 with Disabilities Act and in complying with Section 2-105 of  
6 the Illinois Human Rights Act. No proposal shall be considered  
7 that does not include an entity's plan to comply with the  
8 requirements regarding ~~established in the~~ minority and women  
9 business enterprises and economically disadvantaged firms  
10 established by ~~the corporate authorities of~~ the transportation  
11 agency and with Section 2-105 of the Illinois Human Rights Act.  
12 The transportation agency may include any additional relevant  
13 criteria in the request for qualifications phase that it deems  
14 necessary for a proper qualification review.

15 Upon completion of the qualifications evaluation, the  
16 transportation agency shall create a shortlist of the most  
17 highly qualified private entities.

18 The transportation agency shall notify the entities  
19 selected for the shortlist in writing. This notification shall  
20 commence the period for the preparation of the request for  
21 proposals phase technical and cost evaluations. The  
22 transportation agency must allow sufficient time for the  
23 shortlist entities to prepare their proposals considering the  
24 scope and detail requested by the transportation agency.

25 (3) The transportation agency shall include in the request  
26 for proposals the evaluating factors to be used in the

1 technical and cost submission components. Each request for  
2 proposals shall establish, for both the technical and cost  
3 submission components, the relative importance assigned to  
4 each evaluation factor ~~and subfactor~~, including any weighting  
5 of criteria to be employed by the transportation agency. The  
6 transportation agency must maintain a record of the evaluation  
7 scoring to be disclosed in event of a protest regarding the  
8 solicitation.

9 The transportation agency shall include the following  
10 criteria in every request for proposals phase technical  
11 evaluation of private entities: (i) compliance with objectives  
12 of the project; (ii) compliance of proposed services to the  
13 request for proposal requirements; (iii) compliance with the  
14 request for proposal requirements ~~quality~~ of products or  
15 materials proposed; (iv) quality of design parameters; and (v)  
16 design concepts; ~~(vi) innovation in meeting the scope and~~  
17 ~~performance criteria; and (vii) constructability of the~~  
18 ~~proposed project~~. The transportation agency may include any  
19 additional relevant technical evaluation factors it deems  
20 necessary for proper selection.

21 The transportation agency shall include the following  
22 criteria in every request for proposals phase cost evaluation:  
23 the total project cost and the time of completion. The  
24 transportation agency may include any additional relevant  
25 technical evaluation factors it deems necessary for proper  
26 selection. The guaranteed maximum project cost criteria

1 weighing factor shall not exceed 30%.

2 The transportation agency shall directly employ or retain a  
3 licensed design professional to evaluate the technical and cost  
4 submissions to determine if the technical submissions are in  
5 accordance with generally accepted industry standards.

6 (e) Statements of qualifications and proposals must be  
7 properly identified and sealed. Statements of qualifications  
8 and proposals may not be reviewed until after the deadline for  
9 submission has passed as set forth in the request for  
10 qualifications or the request for proposals. All private  
11 entities submitting statements of qualifications or proposals  
12 shall be disclosed after the deadline for submission, and all  
13 private entities who are selected for request for proposals  
14 phase evaluation shall also be disclosed at the time of that  
15 determination.

16 Design-build ~~Phase II design-build~~ proposals shall include  
17 a bid bond in the form and security as designated in the  
18 request for proposals. Proposals shall also contain a separate  
19 sealed envelope with the cost information within the overall  
20 proposal submission. Proposals shall include a list of all  
21 design professionals and other entities to which any work  
22 identified in Section 30-30 of the Illinois Procurement Code as  
23 a subdivision of construction work may be subcontracted during  
24 the performance of the contract to the extent known at the time  
25 of proposal. If the information is not known at the time of  
26 proposal, then the design-build agreement shall require the

1 identification prior to a previously unlisted subcontractor  
2 commencing work on the transportation project.

3 Statements of qualifications and proposals must meet all  
4 material requirements of the request for qualifications or  
5 request for proposals, or else they may be rejected as  
6 non-responsive. The transportation agency shall have the right  
7 to reject any and all statements of qualifications and  
8 proposals.

9 The private entity's proprietary intellectual property  
10 contained in the drawings and specifications of any  
11 unsuccessful statement of qualifications or proposal shall  
12 remain the property of the private entity.

13 The transportation agency shall review the statements of  
14 qualifications and the proposals for compliance with the  
15 performance criteria and evaluation factors.

16 Statements of qualifications and proposals may be  
17 withdrawn prior to the due date and time for submissions for  
18 any cause. After evaluation begins by the transportation  
19 agency, clear and convincing evidence of error is required for  
20 withdrawal.

21 (Source: P.A. 97-502, eff. 8-23-11.)

22 (630 ILCS 5/35)

23 Sec. 35. Public-private agreements.

24 (a) Unless undertaking actions otherwise permitted in an  
25 interim agreement entered into under Section 30 of this Act,



1 before developing, financing, or operating the transportation  
2 project, the approved proposer shall enter into a  
3 public-private agreement with the transportation agency.  
4 Subject to the requirements of this Act, a public-private  
5 agreement may provide that the approved proposer, acting on  
6 behalf of the transportation agency, is partially or entirely  
7 responsible for any combination of developing, financing, or  
8 operating the transportation project under terms set forth in  
9 the public-private agreement.

10 (b) The public-private agreement may, as determined  
11 appropriate by the transportation agency for the particular  
12 transportation project, provide for some or all of the  
13 following:

14 (1) Development ~~Construction~~, financing, and operation  
15 of the transportation project under terms set forth in the  
16 public-private agreement, in any form as deemed  
17 appropriate by the transportation agency, including, but  
18 not limited to, a long-term concession and lease, a  
19 design-bid-build agreement, a design-build agreement, a  
20 design-build-maintain agreement, a design-build-finance  
21 agreement, a design-build-operate-maintain agreement and a  
22 design-build-finance-operate-maintain agreement.

23 (2) Delivery of performance and payment bonds or other  
24 performance security determined suitable by the  
25 transportation agency, including letters of credit, United  
26 States bonds and notes, parent guaranties, and cash

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

14 (3) Review of plans for any development or operation,  
15 or both, of the transportation project by the  
16 transportation agency.

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

24 (5) Maintenance of:

25 (A) one or more policies of public liability  
26 insurance (copies of which shall be filed with the

1 transportation agency accompanied by proofs of  
2 coverage); or

3 (B) self-insurance;

4 each in form and amount as set forth in the public-private  
5 agreement or otherwise satisfactory to the transportation  
6 agency as reasonably sufficient to insure coverage of tort  
7 liability to the public and employees and to enable the  
8 continued operation of the transportation project.

9 (6) Where operations are included within the  
10 contractor's obligations under the public-private  
11 agreement, monitoring of the maintenance practices of the  
12 contractor by the transportation agency or another entity  
13 designated by the transportation agency or under the  
14 public-private agreement and the taking of the actions the  
15 transportation agency finds appropriate to ensure that the  
16 transportation project is properly maintained.

17 (7) Reimbursement to be paid to the transportation  
18 agency as set forth in the public-private agreement for  
19 services provided by the transportation agency.

20 (8) Filing of appropriate financial statements and  
21 reports as set forth in the public-private agreement or as  
22 otherwise in a form acceptable to the transportation agency  
23 on a periodic basis.

24 (9) Compensation or payments to the contractor.  
25 Compensation or payments may include any or a combination  
26 of the following:

1           (A) a base fee and additional fee for project  
2 savings as the design-builder of a construction  
3 project;

4           (B) a development fee, payable on a lump-sum basis,  
5 progress payment basis, time and materials basis, or  
6 another basis deemed appropriate by the transportation  
7 agency;

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

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

13           (E) a maximum rate of return on investment or  
14 return on equity or a combination of the two;

15           (F) in-kind services, materials, property,  
16 equipment, or other items;

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

18           (H) availability payments or similar arrangements  
19 whereby payments are made to the contractor pursuant to  
20 the terms set forth in the public-private agreement or  
21 related agreements; or

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

25           (10) Compensation or payments to the transportation  
26 agency, if any. Compensation or payments may include any or

1 a combination of the following:

2 (A) a concession or lease payment or other fee,  
3 which may be payable upfront or on a periodic basis or  
4 on another basis deemed appropriate by the  
5 transportation agency;

6 (B) sharing of revenues, if any, from the operation  
7 of the transportation project;

8 (C) sharing of project savings from the  
9 construction of the transportation project;

10 (D) payment for any services, materials,  
11 equipment, personnel, or other items provided by the  
12 transportation agency to the contractor under the  
13 public-private agreement or in connection with the  
14 transportation project; or

15 (E) other compensation set forth in the  
16 public-private agreement or otherwise deemed  
17 appropriate by the transportation agency.

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

23 (12) Reversion of the transportation project to the  
24 transportation agency at the termination or expiration of  
25 the public-private agreement.

26 (13) Rights and remedies of the transportation agency

1 in the event that the contractor defaults or otherwise  
2 fails to comply with the terms of the public-private  
3 agreement.

4 (14) Procedures for the selection of professional  
5 design firms and subcontractors, which shall include  
6 procedures consistent with the Architectural, Engineering,  
7 and Land Surveying Qualifications Based Selection Act for  
8 the selection of professional design firms and may include,  
9 in the discretion of the transportation agency, procedures  
10 consistent with the low bid procurement procedures  
11 outlined in the Illinois Procurement Code for the selection  
12 of construction companies.

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

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

24 (d) A public-private agreement may:

25 (1) authorize the imposition of tolls in any manner  
26 determined appropriate by the transportation agency for

1 the transportation project;

2 (2) authorize the contractor to adjust the user fees  
3 for the use of the transportation project, so long as the  
4 amounts charged and collected by the contractor do not  
5 exceed the maximum amounts established by the  
6 transportation agency under the public-private agreement  
7 ~~this Act~~;

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

13 (4) authorize the contractor to charge and collect user  
14 fees through methods, including, but not limited to,  
15 automatic vehicle identification systems, electronic toll  
16 collection systems, and, to the extent permitted by law,  
17 global positioning system-based, photo-based, or  
18 video-based toll collection enforcement, provided that to  
19 the maximum extent feasible the contractor will (i) utilize  
20 open road tolling methods that allow payment of tolls at  
21 highway speeds and (ii) comply with United States  
22 Department of Transportation requirements and best  
23 practices with respect to tolling methods; and

24 (5) authorize the collection of user fees by a third  
25 party.

26 (e) In the public-private agreement, the transportation

1 agency may agree to make grants or loans for the development or  
2 operation, or both, of the transportation project from time to  
3 time from amounts received from the federal government or any  
4 agency or instrumentality of the federal government or from any  
5 State or local agency.

6 (f) Upon the termination or expiration of the  
7 public-private agreement, including a termination for default,  
8 the transportation agency shall have the right to take over the  
9 transportation project and to succeed to all of the right,  
10 title, and interest in the transportation project, ~~subject to~~  
11 ~~any liens on revenues previously granted by the contractor to~~  
12 ~~any person providing financing for the transportation project.~~

13 Upon termination or expiration of the public-private agreement  
14 relating to a transportation project undertaken by the  
15 Department, all real property acquired as a part of the  
16 transportation project shall be held in the name of the State  
17 of Illinois. Upon termination or expiration of the  
18 public-private agreement relating to a transportation project  
19 undertaken by the Authority, all real property acquired as a  
20 part of the transportation project shall be held in the name of  
21 the Authority.

22 (g) If a transportation agency elects to take over a  
23 transportation project as provided in subsection (f) of this  
24 Section, the transportation agency may do the following:

25 (1) develop, finance, or operate the project,  
26 including through a public-private agreement entered into



1 in accordance with this Act; or

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

4 (h) If a transportation agency elects to take over a  
5 transportation project as provided in subsection (f) of this  
6 Section, the transportation agency may use the revenues, if  
7 any, for any lawful purpose, including to:

8 (1) make payments to individuals or entities in  
9 connection with any financing of the transportation  
10 project, including through a public-private agreement  
11 entered into in accordance with this Act;

12 (2) permit a contractor to receive some or all of the  
13 revenues under a public-private agreement entered into  
14 under this Act;

15 (3) pay development costs of the project;

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

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

20 (6) pay for the development, financing, or operation of  
21 any other project or projects the transportation agency  
22 deems appropriate.

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

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

5 (j) The transportation agency may enter into a  
6 public-private agreement with multiple approved proposers if  
7 the transportation agency determines in writing that it is in  
8 the public interest to do so.

9 (k) A public-private agreement shall not include any  
10 provision under which the transportation agency agrees to  
11 restrict or to provide compensation to the private entity for  
12 the construction or operation of a competing transportation  
13 facility during the term of the public-private agreement.

14 (l) With respect to a public-private agreement entered into  
15 by the Department, the Department shall certify in its State  
16 budget request to the Governor each year the amount required by  
17 the Department during the next State fiscal year to enable the  
18 Department to make any payment obligated to be made by the  
19 Department pursuant to that public-private agreement, and the  
20 Governor shall include that amount in the State budget  
21 submitted to the General Assembly.

22 (Source: P.A. 97-502, eff. 8-23-11.)

23 (630 ILCS 5/40)

24 Sec. 40. Development and operations standards for  
25 transportation projects.

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

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

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

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

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

15 (1) the State highway system for purposes of  
16 identification, maintenance standards, and enforcement of  
17 traffic laws if the highway project is under the  
18 jurisdiction of the Department; or

19 (2) the toll highway system for purposes of  
20 identification, maintenance standards, and enforcement of  
21 traffic laws if the highway project is under the  
22 jurisdiction of the Authority.

23 (c) Any unit of local government or State agency may enter  
24 into agreements with the contractor for maintenance or other  
25 services under this Act.

26 (d) Any electronic toll collection system used on a toll

1 highway, bridge, or tunnel as part of a transportation project  
2 must be compatible with the electronic toll collection system  
3 used by the Authority. The Authority is authorized to  
4 construct, operate, and maintain any electronic toll  
5 collection system used on a toll highway, bridge, or tunnel as  
6 part of a transportation project pursuant to an agreement with  
7 the transportation agency or the contractor responsible for the  
8 transportation project. All private entities and public  
9 agencies shall have an equal opportunity to contract with the  
10 Authority to provide construction, operation, and maintenance  
11 services. In addition, during the procurement of a  
12 public-private agreement, these construction, operation, and  
13 maintenance services shall be available under identical terms  
14 to each private entity participating in the procurement. To the  
15 extent that a public-private agreement or an agreement with a  
16 public agency under subsection (c) of Section 20 of this Act  
17 authorizes tolling, the transportation agencies and any  
18 contractor under a public-private partnership or a public  
19 agency under an agreement pursuant to subsection (c) of Section  
20 20 of this Act shall comply with subsection (a-5) of Section 10  
21 of the Toll Highway Act as it relates to toll enforcement.

22 (Source: P.A. 97-502, eff. 8-23-11.)

23 (630 ILCS 5/45)

24 Sec. 45. Financial arrangements.

25 (a) The transportation agency may do any combination of

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

6 (b) The transportation agency may take any action to obtain  
7 federal, State, or local assistance for a transportation  
8 project that serves the public purpose of this Act and may  
9 enter into any contracts required to receive the federal  
10 assistance. The transportation agency may determine that it  
11 serves the public purpose of this Act for all or any portion of  
12 the costs of a transportation project to be paid, directly or  
13 indirectly, from the proceeds of a grant or loan, line of  
14 credit, or loan guarantee made by a local, State, or federal  
15 government or any agency or instrumentality of a local, State,  
16 or federal government. Such assistance may include, but not be  
17 limited to, federal credit assistance pursuant to the  
18 Transportation Infrastructure Finance and Innovation Act  
19 (TIFIA).

20 (c) The transportation agency may agree to make grants or  
21 loans for the development, financing, or operation of a  
22 transportation project from time to time, from amounts received  
23 from the federal, State, or local government or any agency or  
24 instrumentality of the federal, State, or local government.

25 (d) Any financing of a transportation project may be in the  
26 amounts and upon the terms and conditions that are determined

1 by the parties to the public-private agreement.

2 (e) For the purpose of financing a transportation project,  
3 the contractor and the transportation agency may do the  
4 following:

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

7 (2) enter into grant agreements;

8 (3) access any other funds available to the  
9 transportation agency; and

10 (4) accept grants from the transportation agency or  
11 other public or private agency or entity.

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

16 (g) For the purpose of financing a transportation project,  
17 each transportation agency is authorized to do any combination  
18 of applying for, executing, or endorsing applications for an  
19 allocation of tax-exempt bond financing authorization provided  
20 by Section 142(m) of the United States Internal Revenue Code,  
21 as well as financing available under any other federal law or  
22 program.

23 (h) Any bonds, debt, or other securities or other financing  
24 issued by or on behalf of a contractor for the purposes of a  
25 project undertaken under this Act shall not be deemed to  
26 constitute a debt of the State or any political subdivision of

1 the State or a pledge of the faith and credit of the State or  
2 any political subdivision of the State.

3 (Source: P.A. 97-502, eff. 8-23-11.)

4 (630 ILCS 5/90 new)

5 Sec. 90. Public-Private Partnerships for Transportation  
6 Fund. The Public-Private Partnerships for Transportation Fund  
7 is created as a special fund in the State treasury. Moneys in  
8 the Public-Private Partnerships for Transportation Fund shall  
9 be appropriated to the Department of Transportation to promote  
10 the development, financing, and operation of transportation  
11 facilities under this Act. Investment income which is  
12 attributable to the investment of moneys in the Public-Private  
13 Partnerships for Transportation Fund shall be retained in the  
14 Public-Private Partnerships for Transportation Fund.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law."