



Sen. Kwame Raoul

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LRB098 08041 HLH 44601 a

1 AMENDMENT TO SENATE BILL 1647

2 AMENDMENT NO. _____. Amend Senate Bill 1647 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1.

5 DESIGN-BUILD FOR TRANSPORTATION INFRASTRUCTURE ACT

6 Section 1-1. Short title. This Act may be cited as the
7 Design-Build for Transportation Infrastructure Act.

8 Section 1-5. Legislative policy.

9 (a) It is the public policy of the State of Illinois to
10 promote the development of infrastructure projects that serve
11 the needs of the public.

12 (b) The design-build project delivery method has the
13 potential to safely deliver infrastructure projects on more
14 predictable schedules and budgets. Earlier completions and
15 lower costs are possible with the ability to shift or share

1 risks with the private sector that are generally retained by
2 the public in the conventional design-bid-build project
3 delivery method.

4 (c) It is the intent of the General Assembly that the
5 Illinois Department of Transportation and the Illinois State
6 Toll Highway Authority be allowed to carry out a demonstration
7 program related to the design-build project delivery method.

8 (d) It is the intent of this Act to use Illinois design
9 professionals, construction companies, and workers to the
10 greatest extent possible.

11 (e) The powers granted in this Act are in addition to any
12 other powers authorized under applicable law.

13 Section 1-10. Definitions. As used in this Act:

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

16 "Best value" means any selection process in which proposals
17 contain both price and qualitative components and award is
18 based upon a combination of price and quantitative
19 considerations.

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

22 "Design-bid-build project delivery method" means the
23 traditional method of procuring and contracting for design and
24 construction services used in this State, which incorporates
25 the Architectural, Engineering, and Land Surveying

1 Qualifications Based Selection Act and the principles of
2 competitive bidding set forth in the Illinois Procurement Code.

3 "Design-build project delivery method" means a method of
4 procurement and contracting that provides responsibility
5 within a single contract between the Transportation Agency and
6 a design-builder for the furnishing of architectural,
7 surveying, engineering, construction, and related services for
8 a transportation facility, and may also include responsibility
9 for financing all or a portion of that facility, procured on
10 the basis of a combination of qualifications, price and other
11 factors.

12 "Design-build contract" means a contract between the
13 Transportation Agency and a design-builder under which the
14 design-builder agrees to furnish architectural, surveying,
15 engineering, construction, and related services for a
16 transportation facility, and may also include the
17 design-builder having responsibility for financing a portion
18 or all of this facility.

19 "Design-builder" means a proposer that has entered into a
20 design-build contract under this Act.

21 "Evaluation Committee" means the committee assembled to
22 evaluate and score statements of qualifications, draft, and
23 final proposals. The Evaluation Committee shall include a
24 technical review team for the technical proposals.

25 "Evaluation criteria" means the publicly announced
26 standards and requirements established by the Transportation

1 Agency against which the qualifications and proposals of a
2 proposer will be assessed during the procurement of a
3 design-build contract.

4 "Metropolitan Planning Organization" means a metropolitan
5 planning organization designated under 23 U.S.C. Section 134
6 whose metropolitan planning area boundaries are partially or
7 completely within the State.

8 "Proposal" means a response to a request for proposals.

9 "Proposer" means any individual, sole proprietorship,
10 firm, partnership, joint venture, corporation, professional
11 corporation, or other entity legally established to conduct
12 business in the State of Illinois that proposes to be the
13 design-builder for any transportation facility under this Act.
14 A proposer and its members shall conduct themselves in
15 accordance with the laws of this State and the related
16 provisions of the Illinois Administrative Code, as referenced
17 by the licensed design professionals Acts of this State.

18 "Qualifications" means a statement of qualifications
19 submitted by a proposer in response to a request for
20 qualifications.

21 "Request for proposals" means the document issued by the
22 Transportation Agency to solicit proposals, that describes the
23 procurement process, forms the basis for the final proposals
24 and may potentially become an element in the design-build
25 contract in accordance with the design-build project delivery
26 method.

1 "Request for qualifications" means the document issued by
2 the Transportation Agency in the first phase of a two-phase
3 procurement to solicit qualifications from proposers in
4 accordance with the design-build project delivery method.

5 "Scope and performance requirements" means the preferred
6 constructed elements, activities, and standards of performance
7 required by the Transportation Agency to be complied with in
8 the development of the transportation facility, which may
9 include but not be limited to, the intended usage, capacity,
10 size, scope, quality and performance standards, life-cycle
11 costs, preliminary engineering, design and other requirements
12 as developed and determined by the Transportation Agency.

13 "Transportation Agency" means the Illinois Department of
14 Transportation or the Illinois State Toll Highway Authority.

15 "Transportation facility" means any new or existing
16 facility or group of facilities which may include highways,
17 roads, bridges, tunnels, overpasses, ferries, airports or
18 other aviation facilities, public transportation facilities,
19 vehicle parking facilities, seaport facilities, rail
20 facilities, intermodal facilities, transit facilities or
21 similar facilities used for the transportation of persons or
22 goods.

23 Section 1-15. Authorization of Project Delivery Methods.

24 (a) Notwithstanding any other law, and as authority
25 supplemental to its existing powers, a Transportation Agency,

1 in accordance with this Act, is authorized to use the
2 design-build project delivery method for up to 5 transportation
3 facilities per Transportation Agency; provided that, prior to
4 commencing a procurement under this Act, the Transportation
5 Agency has first undertaken an analysis and made a written
6 determination that it is in the best interests of this State to
7 utilize the selected delivery method for that transportation
8 facility. The proposed analysis and determination shall
9 discuss impacts to the schedule and completion date and project
10 costs. The best interests of the State analysis shall be made
11 available to the public.

12 (b) The Transportation Agency shall report to the General
13 Assembly annually on the progress of procurements and
14 transportation facilities procured under this Act. The
15 Transportation Agency's obligation to submit a progress report
16 for a particular transportation facility shall, as applicable,
17 end two years after (i) the Transportation Agency's termination
18 of the procurement, (ii) early termination of the design-build
19 contract, or (iii) completion of the transportation facility.

20 Section 1-20. Preconditions to commencement of
21 procurement.

22 (a) If the Transportation Agency determines to use the
23 design-build project delivery method for a particular
24 transportation facility, the Transportation Agency may not
25 commence a procurement for the transportation facility unless

1 one of the following requirements is satisfied: (1) the
2 transportation facility is included in the State's Multi-Year
3 Highway Improvement Program; (2) the Transportation Agency has
4 issued a notice of intent to receive qualifications at least 14
5 days prior to the issuance of the request for qualifications;
6 or (3) for a single phase procurement authorized pursuant to
7 subsection (a) of Section 1-25, the Transportation Agency has
8 issued a notice of intent to receive proposals at least 14 days
9 prior to the issuance of the request for proposals. If the
10 Transportation Agency issues one of the notices of intent
11 described above, the Transportation Agency shall publish the
12 notice of intent in the Transportation Procurement Bulletin or
13 their official procurement bulletin. The Transportation Agency
14 shall include a description of the proposed procurement in any
15 notice of intent.

16 (b) The Transportation Agency must determine that any
17 transportation facility developed pursuant to this Act must be
18 consistent with the regional plan then in existence of any
19 metropolitan planning organization in whose boundaries the
20 transportation facility is located.

21 Section 1-25. Procurement process.

22 (a) The Transportation Agency may solicit a proposer with
23 which to enter into a design-build contract by using, without
24 limitation, requests for qualifications, short-listing of the
25 most highly qualified proposers, requests for proposals,

1 negotiations, and best and final offers. The Transportation
2 Agency shall use a two-phase procurement to select the
3 successful proposer; provided that the Transportation Agency
4 may use a single phase procurement if the transportation
5 facility is estimated to cost less than \$10,000,000 or the
6 Secretary of Transportation or Executive Director of the
7 Illinois State Highway Toll Authority makes a written
8 determination that the Transportation Agency may use a single
9 phase procurement for a particular transportation facility. In
10 a two-phase procurement, the Transportation Agency shall use
11 the first phase to evaluate and short-list the most highly
12 qualified proposers based on qualifications, and then use the
13 second phase to evaluate and select a proposer based on
14 proposals submitted by the short-listed proposers. In a single
15 phase procurement, the Transportation Agency shall solicit
16 proposers with a request for proposals, and shall evaluate and
17 select a proposer based on proposals.

18 (b) The request for qualifications may contain any
19 information deemed appropriate by the Transportation Agency
20 including, without limitation, the following information:

21 (1) the anticipated scope of work for the
22 transportation facility;

23 (2) a requirement that the proposer identify certain
24 key personnel and certain key firms including the lead
25 design firm and the lead construction firm, the experience
26 of such personnel and firms, and the condition on which

1 identified firms can be replaced;

2 (3) the evaluation criteria for the qualifications and
3 the relative importance of those criteria; the evaluation
4 criteria for qualifications for both the lead design and
5 construction firms shall, at a minimum, (i) require that
6 the proposer address its ability to meet, past performance
7 in meeting, or in exhausting good faith efforts to meet,
8 the utilization goals, or plans to comply with the
9 utilization goals, for business enterprises established in
10 the Business Enterprise for Minorities, Females, and
11 Persons with Disability Act or federal law or regulations
12 that establish standards and procedures for the
13 utilization of minority, disadvantaged, and female-owned
14 businesses, and (ii) require the proposer to identify its
15 ability to comply with, plan, and past performance in
16 complying with, Section 2-105 of the Illinois Human Rights
17 Act.

18 The evaluation criteria for qualifications may also
19 address, without limitation, the proposer's technical
20 qualifications, such as specialized experience, technical
21 competence, capability to perform, and past performance,
22 including the proposer's safety record, capacity of
23 proposer, and any other qualifications based factors;

24 (4) the Transportation Agency's established
25 prequalification, licensing and registration requirements,
26 including the Professional Engineering Practice Act of

1 1989, the Illinois Architectural Practice Act of 1989, the
2 Structural Engineering Practice Act of 1989, and the
3 Illinois Professional Land Surveyor Act of 1989, provided
4 that nothing contained herein precludes the Transportation
5 Agency's use of additional prequalification criteria or
6 pass/fail evaluation factors addressing minimum levels of
7 technical experience or financial capabilities;

8 (5) the maximum number of proposers the Transportation
9 Agency will short-list to submit proposals; and

10 (6) any other relevant information.

11 (c) Upon completion of the qualifications evaluation, the
12 Transportation Agency shall, based on the evaluation criteria
13 set forth in the request for qualifications, create a
14 short-list of the most highly qualified proposers. The
15 Transportation Agency shall short-list no fewer than 2 of the
16 most highly qualified proposers unless (i) fewer than 2
17 proposers submit qualifications, (ii) fewer than 2 proposers
18 meet the applicable prequalification and pass/fail
19 requirements, or (iii) the Secretary of Transportation makes a
20 finding that the Transportation Agency may short-list fewer
21 than 2 proposers.

22 (d) The request for proposals shall contain all critical
23 information deemed appropriate by the Transportation Agency,
24 and may include, without limitation, the following
25 information:

26 (1) the schedule or date for completion of the

1 transportation facility;

2 (2) the form and amount of required bid security;

3 (3) the terms of the design-build contract including,
4 but not limited to, scope and performance requirements,
5 schedule or completion date requirements, subcontractor
6 requirements, payment and performance security
7 requirements, and insurance requirements.

8 (4) a provision for the proposer's plans to meet the
9 utilization requirements for business enterprises
10 established in the Business Enterprise for Minorities,
11 Females, and Persons with Disability Act, or federal law or
12 regulations that establish standards and procedures for
13 the utilization of minority, disadvantaged, and
14 female-owned businesses, and compliance with Section 2-105
15 of the Illinois Human Rights Act;

16 (5) the proposed budget for the project;

17 (6) the requirements for the technical component of the
18 proposal, including a description of the level of design,
19 scope and type of renderings, drawings, and specifications
20 to be provided in the proposals;

21 (7) the requirements for the price component of the
22 proposal.

23 (8) the evaluation criteria for the proposals and the
24 relative importance of those criteria, including any
25 formulas to be employed by the Transportation Agency; as
26 the Transportation Agency deems appropriate, the technical

1 proposal evaluation criteria may, without limitation,
2 include compliance with the Transportation Agency's stated
3 objectives for the project, the proposal's compliance with
4 the request for proposal requirements, the level of quality
5 of proposed products or materials, and the quality of the
6 proposed design;

7 (9) the acceptance of Alternate Technical Concepts

8 (10) in the case of a single phase procurement,
9 requirements regarding the proposer's qualifications; or

10 (11) any other relevant information.

11 (e) The transportation agency may conduct discussions to
12 promote understanding of the Transportation Agency's
13 requirements prior to submittal of final proposals.

14 (f) The date proposals are due must be at least 28 calendar
15 days after the date of the issuance of the request for
16 proposals.

17 (g) The Transportation Agency may offer to pay a stipend in
18 an amount and on the terms and conditions determined by the
19 Transportation Agency and as set forth in the proposal to (i)
20 all short-listed proposers if the Transportation Agency
21 cancels the procurement before the due date for proposals or
22 (ii) each unsuccessful proposer that submits a responsive
23 proposal. The Transportation Agency may pay a stipend only to
24 those proposers who agree that their proposal and other
25 proposal-related submissions will become the property of the
26 Transportation Agency.

1 (h) The Transportation Agency shall directly employ or
2 retain a professional engineer(s) licensed in the State, and
3 licensed architect for building facilities to prepare the scope
4 and assist in the evaluation of the proposals' technical
5 submissions under a design-build project delivery method and
6 determine if the submissions are in accordance with generally
7 accepted industry standards

8 (i) The Transportation Agency shall have the right to
9 reject any and all qualifications or proposals, including, but
10 not limited to the right to reject any proposal as
11 non-responsive if the proposal does not meet all material
12 requirements of the request for proposals. The Transportation
13 Agency shall not consider a proposal that does not include: (i)
14 the proposer's plan to comply with requirements regarding
15 utilization of business enterprises, including disadvantaged
16 business enterprises, established by the Transportation
17 Agency; or (ii) bid security in the form and amount designated
18 in the request for proposals.

19 Section 1-30. Evaluation Committee.

20 (a) The Transportation Agency shall establish an
21 evaluation committee to review and select the design-builder.
22 The evaluation committee, under the discretion of the
23 Transportation Agency, shall consist of 7 members and shall
24 include at least 6 licensed design professionals. Two of the
25 members shall be members of the public and shall both be

1 licensed design-professionals. Public Members may not be
2 employed or associated with any firm associated with a
3 design-build entity proposing on the public project. One public
4 member shall be nominated by associations representing the
5 general design or construction industry, and one member shall
6 be nominated by associations that represent minority or
7 female-owned design or construction industry businesses. The
8 evaluation committee may be for a set term or for the
9 particular project subject to the request for proposal.

10 (b) The members of the evaluation committee must certify
11 for each request for proposal that no conflict of interest
12 exists between the members and the design-build entities
13 submitting proposals. If a conflict exists, the member must be
14 replaced before any review of proposals.

15 (c) The Transportation Agency shall conduct a technical
16 review, evaluation and scoring of proposals and submit those
17 results to the evaluation committee prior to the review and
18 selection by the evaluation committee.

19 Section 1-35. Procedures for selection. Upon completion of
20 the evaluation of proposals, if the Transportation Agency
21 decides to award a design-build contract, the Transportation
22 Agency shall award the contract to the proposer whose proposal
23 is determined to offer the best value to the public based on
24 the evaluation criteria set forth in the request for proposals.
25 Notwithstanding the above, if, for any reason, the proposer

1 submitting the best value proposal is unable or unwilling to
2 execute the contract, including the failure of the proposer and
3 the Transportation Agency to successfully complete
4 negotiations of the contract, the Transportation Agency may
5 award the contract to the proposer whose proposal offers the
6 public the next best value.

7 Section 1-40. Project records, confidentiality, and public
8 disclosure.

9 (a) The Transportation Agency shall maintain all written
10 decisions, evaluations, scoring documents, selection
11 evaluations, proposals, and procurement documents in a
12 procurement file maintained by the Transportation Agency.

13 (b) A proposer may identify those portions of a proposal or
14 other submission that the proposer considers to be trade
15 secrets or confidential commercial, financial, or proprietary
16 information. To consider confidential and proprietary
17 information and trade secrets to be exempt from disclosure, the
18 proposer shall do all of the following:

19 (1) request exclusion from disclosure upon submission
20 of the information or other materials for which protection
21 is sought;

22 (2) identify the data or other materials for which
23 protection is sought;

24 (3) state the reasons why protection is necessary; and

25 (4) fully comply with the federal Freedom of

1 Information Act and any other applicable provisions of
2 State law with respect to information the proposer contends
3 should be exempt from disclosure;

4 (5) certify if such information is in accordance with
5 the protection of the Illinois Trade Secrets Act.

6 (c) Notwithstanding any other provision of law, in order to
7 properly balance the need to maximize competition under this
8 Act with the need to create a transparent procurement process,
9 qualifications, proposals, other information and documents
10 submitted by proposers and the Transportation Agency's
11 evaluation records shall not be subject to release or
12 disclosure by the Transportation Agency until execution of the
13 design-build contract. If the Transportation Agency rejects
14 all qualifications submitted in response to a request for
15 qualifications, or rejects all proposals submitted in response
16 to a request for proposals, the exemption from release or
17 disclosure under this section shall remain in place until the
18 Transportation Agency re-procures the transportation facility
19 and has entered into a design-build contract. However, this
20 exemption shall lapse if the Transportation Agency does not
21 commence the re-procurement of the transportation facility
22 within one year of its rejection of the responses to the
23 request for qualifications or request for proposals.

24 Section 1-45. Design-build contract. A design-build
25 contract may include any provisions the Transportation Agency

1 determines are necessary or appropriate, including but not
2 limited to provisions regarding the following:

3 (1) compensation or payments to the design-builder;

4 (2) grounds for termination of the design-build contract,
5 including the Transportation Agency's right to terminate for
6 convenience;

7 (3) liability for damages and nonperformance;

8 (4) events of default and the rights and remedies available
9 to the design-builder and the Transportation Agency in the
10 event of a default or delay;

11 (5) terms for the design-builder's compliance with
12 business enterprises, including disadvantaged business
13 enterprises, requirements and with Section 2-105 of the
14 Illinois Human Rights Act;

15 (6) the identification of any technical specifications
16 that the design-builder must comply with when developing plans
17 or performing construction work;

18 (7) the procedures for review and approval of the
19 design-builder's plans;

20 (8) required performance and payment security;

21 (9) the terms and conditions of indemnification and minimum
22 insurance requirements; or

23 (10) any other terms and conditions.

24 Section 1-50. Labor.

25 (a) The Transportation Agency shall consider requiring the

1 use of a project labor agreement in connection with the
2 development of a transportation facility under this Act.

3 (b) The design-builder and all subcontractors to them,
4 shall comply with Section 30-22 of the Illinois Procurement
5 Code as they apply to responsible bidders and to present
6 satisfactory evidence of that compliance to the Transportation
7 Agency, unless the project is federally funded and the
8 application of those requirements would jeopardize the receipt
9 or use of federal funds in support of the transportation
10 project, and all applicable general labor provisions.

11 Section 1-55. Funding and financing.

12 (a) The Transportation Agency may utilize any lawful source
13 of funding and financing to compensate a design-builder for
14 work and services performed under a design-build contract and
15 the Transportation Agency may combine federal, State, local,
16 and private funds to finance a transportation facility.

17 (b) The Transportation Agency may impose short term, 5
18 years or less, financing obligations and other financial
19 responsibilities on a design-builder in order to finance the
20 costs of a transportation facility.

21 (c) Subject to appropriation by the General Assembly of the
22 required amounts, the Transportation Agency may obligate and
23 make expenditures of funds as and when needed to satisfy its
24 payment obligations under a design-build contract.

1 Section 1-60. Acquisition of property and related
2 agreements. The Transportation Agency may exercise any and all
3 powers of condemnation or eminent domain, including quick-take
4 powers, to acquire lands or estates or interests in land for a
5 transportation facility under this Act or to the extent the
6 Transportation Agency finds that the action serves the public
7 purpose of this Act and deems the action appropriate in the
8 exercise of its powers under this Act. In addition, the
9 Transportation Agency and a design-builder may enter into
10 leases, licenses, easements, and other grants of property
11 interests that the Transportation Agency determines necessary
12 to carry out this Act.

13 Section 1-65. Administrative Procedure Act. The Illinois
14 Administrative Procedure Act applies to all administrative
15 rules and procedures of the Transportation Agency under this
16 Act except that nothing herein shall be construed to render any
17 prequalification or other responsibility criteria as a
18 "license" or "licensing" under that Act.

19 Section 70. Federal requirements. In the procurement of
20 design-build contracts, the Transportation Agency shall comply
21 with federal law and regulations and take all necessary steps
22 to adapt its rules, policies, and procedures to remain eligible
23 for federal aid.

1 Sec. 2705-233. Design-build for transportation
2 infrastructure. The Transportation Agency may exercise all
3 powers granted to it under the Design-Build for Transportation
4 Infrastructure Act, including the power to enter into all
5 contracts or agreements necessary or incidental to the
6 performance of its powers under the Act, and powers related to
7 any transportation facility implemented pursuant to that Act.

8 Section 5-10. The Illinois Finance Authority Act is amended
9 by adding Section 825-108 as follows:

10 (20 ILCS 3501/825-108 new)

11 Sec. 825-108. Transportation project financing. For the
12 purpose of financing a transportation facility undertaken
13 under the Design-Build for Transportation Infrastructure Act,
14 the Transportation Agency is authorized to apply for an
15 allocation of tax-exempt bond financing authorization provided
16 by Section 142(m) of the United States Internal Revenue Code,
17 as well as financing available under any other federal law or
18 program.

19 Section 5-15. The Illinois Procurement Code is amended by
20 changing Section 1-10 as follows:

21 (30 ILCS 500/1-10)

22 Sec. 1-10. Application.

1 (a) This Code applies only to procurements for which
2 contractors were first solicited on or after July 1, 1998. This
3 Code shall not be construed to affect or impair any contract,
4 or any provision of a contract, entered into based on a
5 solicitation prior to the implementation date of this Code as
6 described in Article 99, including but not limited to any
7 covenant entered into with respect to any revenue bonds or
8 similar instruments. All procurements for which contracts are
9 solicited between the effective date of Articles 50 and 99 and
10 July 1, 1998 shall be substantially in accordance with this
11 Code and its intent.

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

15 (1) Contracts between the State and its political
16 subdivisions or other governments, or between State
17 governmental bodies except as specifically provided in
18 this Code.

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

21 (3) Purchase of care.

22 (4) Hiring of an individual as employee and not as an
23 independent contractor, whether pursuant to an employment
24 code or policy or by contract directly with that
25 individual.

26 (5) Collective bargaining contracts.

1 (6) Purchase of real estate, except that notice of this
2 type of contract with a value of more than \$25,000 must be
3 published in the Procurement Bulletin within 7 days after
4 the deed is recorded in the county of jurisdiction. The
5 notice shall identify the real estate purchased, the names
6 of all parties to the contract, the value of the contract,
7 and the effective date of the contract.

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

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

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

26 (10) Procurement expenditures by the Illinois Health

1 Information Exchange Authority involving private funds
2 from the Health Information Exchange Fund. "Private funds"
3 means gifts, donations, and private grants.

4 (11) Public-private agreements entered into according
5 to the procurement requirements of Section 20 of the
6 Public-Private Partnerships for Transportation Act and
7 design-build agreements entered into according to the
8 procurement requirements of Section 25 of the
9 Public-Private Partnerships for Transportation Act.

10 (c) This Code does not apply to the electric power
11 procurement process provided for under Section 1-75 of the
12 Illinois Power Agency Act and Section 16-111.5 of the Public
13 Utilities Act.

14 (d) Except for Section 20-160 and Article 50 of this Code,
15 and as expressly required by Section 9.1 of the Illinois
16 Lottery Law, the provisions of this Code do not apply to the
17 procurement process provided for under Section 9.1 of the
18 Illinois Lottery Law.

19 (e) This Code does not apply to the process used by the
20 Capital Development Board to retain a person or entity to
21 assist the Capital Development Board with its duties related to
22 the determination of costs of a clean coal SNG brownfield
23 facility, as defined by Section 1-10 of the Illinois Power
24 Agency Act, as required in subsection (h-3) of Section 9-220 of
25 the Public Utilities Act, including calculating the range of
26 capital costs, the range of operating and maintenance costs, or

1 the sequestration costs or monitoring the construction of clean
2 coal SNG brownfield facility for the full duration of
3 construction.

4 (f) This Code does not apply to the process used by the
5 Illinois Power Agency to retain a mediator to mediate sourcing
6 agreement disputes between gas utilities and the clean coal SNG
7 brownfield facility, as defined in Section 1-10 of the Illinois
8 Power Agency Act, as required under subsection (h-1) of Section
9 9-220 of the Public Utilities Act.

10 (g) This Code does not apply to the processes used by the
11 Illinois Power Agency to retain a mediator to mediate contract
12 disputes between gas utilities and the clean coal SNG facility
13 and to retain an expert to assist in the review of contracts
14 under subsection (h) of Section 9-220 of the Public Utilities
15 Act. This Code does not apply to the process used by the
16 Illinois Commerce Commission to retain an expert to assist in
17 determining the actual incurred costs of the clean coal SNG
18 facility and the reasonableness of those costs as required
19 under subsection (h) of Section 9-220 of the Public Utilities
20 Act.

21 (h) This Code does not apply to the process to procure or
22 contracts entered into in accordance with Sections 11-5.2 and
23 11-5.3 of the Illinois Public Aid Code.

24 (i) ~~(h)~~ Each chief procurement officer may access records
25 necessary to review whether a contract, purchase, or other
26 expenditure is or is not subject to the provisions of this

1 Code, unless such records would be subject to attorney-client
2 privilege.

3 (j)Except for Section 20-160 and Article 50 of this Code,
4 the provisions of this Code do not apply to design-build
5 contracts entered into according to the procurement
6 requirements of the Design-Build for Transportation
7 Infrastructure Act.

8 (Source: P.A. 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10;
9 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502, eff. 8-23-11;
10 97-689, eff. 6-14-12; 97-813, eff. 7-13-12; 97-895, eff.
11 8-3-12; revised 8-23-12.)

12 Section 5-20. The Architectural, Engineering, and Land
13 Surveying Qualifications Based Selection Act is amended by
14 adding Section 85 as follows:

15 (30 ILCS 535/85 new)

16 Sec. 85. Design-Build Contracts. This Act shall not apply
17 to the procurement of or contracting for transportation
18 facilities pursuant to design-build contracts under the
19 Design-Build for Transportation Infrastructure Act.

20 Section 5-25. The Employment of Illinois Workers on Public
21 Works Act is amended by adding Section 2.8 as follows:

22 (30 ILCS 570/2.8 new)

1 Sec. 2.8. Design-build contracts. This Act applies to any
2 construction work undertaken pursuant to design-build
3 contracts entered into under the Design-Build for
4 Transportation Infrastructure Act.

5 Section 5-26. The Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Act is amended by adding
7 Section 2.8 as follows:

8 (30 ILCS 575/2.8 new)

9 Sec. 2.8. Design-build contracts. This Act applies to any
10 design-build contracts entered into under the Design-Build for
11 Transportation Infrastructure Act.

12 Section 5-27. The Eminent Domain Act is amended by adding
13 Section 15-5-47 as follows:

14 (735 ILCS 30/15-5-47 new)

15 Sec. 15-5-47. Eminent domain powers in new Acts. The
16 following provisions of law may include express grants of the
17 power to acquire property by condemnation or eminent domain:

18 The Design-Build for Transportation Infrastructure Act;
19 Department of Transportation; for the purposes of constructing
20 a transportation facility under the Act and to serve the public
21 purpose of the Act.

1 Section 5-30. The Prevailing Wage Act is amended by
2 changing Section 2 as follows:

3 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

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

10 As used in this Act, unless the context indicates
11 otherwise:

12 "Public works" means all fixed works constructed or
13 demolished by any public body, or paid for wholly or in part
14 out of public funds. "Public works" as defined herein includes
15 all projects financed in whole or in part with bonds, grants,
16 loans, or other funds made available by or through the State or
17 any of its political subdivisions, including but not limited
18 to: bonds issued under the Industrial Project Revenue Bond Act
19 (Article 11, Division 74 of the Illinois Municipal Code), the
20 Industrial Building Revenue Bond Act, the Illinois Finance
21 Authority Act, the Illinois Sports Facilities Authority Act, or
22 the Build Illinois Bond Act; loans or other funds made
23 available pursuant to the Build Illinois Act; or funds from the
24 Fund for Illinois' Future under Section 6z-47 of the State
25 Finance Act, funds for school construction under Section 5 of

1 the General Obligation Bond Act, funds authorized under Section
2 3 of the School Construction Bond Act, funds for school
3 infrastructure under Section 6z-45 of the State Finance Act,
4 and funds for transportation purposes under Section 4 of the
5 General Obligation Bond Act. "Public works" also includes (i)
6 all projects financed in whole or in part with funds from the
7 Department of Commerce and Economic Opportunity under the
8 Illinois Renewable Fuels Development Program Act for which
9 there is no project labor agreement; (ii) all work performed
10 pursuant to a public private agreement under the Public Private
11 Agreements for the Illiana Expressway Act; ~~and~~ (iii) all
12 projects undertaken under a public-private agreement under the
13 Public-Private Partnerships for Transportation Act; and (iv)
14 all transportation facilities undertaken under a design-build
15 contract pursuant to the Design-Build for Transportation
16 Infrastructure Act. "Public works" also includes all projects
17 at leased facility property used for airport purposes under
18 Section 35 of the Local Government Facility Lease Act. "Public
19 works" also includes the construction of a new wind power
20 facility by a business designated as a High Impact Business
21 under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act.
22 "Public works" does not include work done directly by any
23 public utility company, whether or not done under public
24 supervision or direction, or paid for wholly or in part out of
25 public funds. "Public works" does not include projects
26 undertaken by the owner at an owner-occupied single-family

1 residence or at an owner-occupied unit of a multi-family
2 residence.

3 "Construction" means all work on public works involving
4 laborers, workers or mechanics. This includes any maintenance,
5 repair, assembly, or disassembly work performed on equipment
6 whether owned, leased, or rented.

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

20 "Public body" means the State or any officer, board or
21 commission of the State or any political subdivision or
22 department thereof, or any institution supported in whole or in
23 part by public funds, and includes every county, city, town,
24 village, township, school district, irrigation, utility,
25 reclamation improvement or other district and every other
26 political subdivision, district or municipality of the state

1 whether such political subdivision, municipality or district
2 operates under a special charter or not.

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

12 (Source: P.A. 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186,
13 eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10; 97-502,
14 eff. 8-23-11.)

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