



Rep. Al Riley

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09800SB2365ham001

LRB098 06614 MLW 49452 a

1 AMENDMENT TO SENATE BILL 2365

2 AMENDMENT NO. _____. Amend Senate Bill 2365 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Private Agreements for the Illiana
5 Expressway Act is amended by changing Section 25 as follows:

6 (605 ILCS 130/25)

7 Sec. 25. Provisions of the public private agreement.

8 (a) The public private agreement shall include all of the
9 following:

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

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

14 (3) Compensation or payments to the Department, if
15 applicable;

16 (4) Compensation or payments to the contractor;

1 (5) A provision specifying that the Department:

2 (A) has ready access to information regarding the
3 contractor's powers, duties, responsibilities,
4 obligations, and functions under the public private
5 agreement;

6 (B) has the right to demand and receive information
7 from the contractor concerning any aspect of the
8 contractor's powers, duties, responsibilities,
9 obligations, and functions under the public private
10 agreement; and

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

13 (6) A provision imposing an affirmative duty on the
14 contractor to provide the Department with any information
15 the contractor reasonably believes the Department would
16 want to know or would need to know to enable the Department
17 to exercise its powers, carry out its duties,
18 responsibilities, and obligations, and perform its
19 functions under this Act or the public private agreement or
20 as otherwise required by law;

21 (7) A provision requiring the contractor to provide the
22 Department with advance notice of any decision that bears
23 significantly on the public interest so the Department has
24 a reasonable opportunity to evaluate and countermand that
25 decision pursuant to this Section;

26 (8) A requirement that the Department monitor and

1 oversee the contractor's practices and take action that the
2 Department considers appropriate to ensure that the
3 contractor is in compliance with the terms of the public
4 private agreement;

5 (9) The authority of the Department to enter into
6 contracts with third parties pursuant to Section 50 of this
7 Act;

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

10 (10.5) A provision stating that, in the event that the
11 contractor does not have a subcontract with a design-build
12 entity in effect at the time of execution of the
13 public-private agreement by the Department, the contractor
14 ~~must~~ ~~the contractor finds it necessary, proper, or~~
15 ~~desirable to enter into subcontracts with one or more~~
16 ~~design build entities, then it must~~ follow a selection
17 process that is, to the greatest extent possible, identical
18 to the selection process contained in the Design-Build
19 Procurement Act;

20 (11) The authority of the contractor to impose user
21 fees and the amounts of those fees, including the authority
22 of the contractor to use congestion pricing, pursuant to
23 which higher tolls rates are imposed during times or in
24 locations of increased congestion;

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

1 (13) A provision governing rights to real and personal
2 property of the State, the Department, the contractor, and
3 other third parties;

4 (14) A provision stating that the contractor must,
5 pursuant to Section 75 of this Act, finance an independent
6 audit if the construction costs under the contract exceed
7 \$50,000,000;

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

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

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

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

26 (19) A requirement that the contractor enter into a

1 project labor agreement pursuant to Section 100 of this
2 Act;

3 (19.5) A provision stating that construction
4 contractors shall comply with the requirements of Section
5 30-22 of the Illinois Procurement Code pursuant to Section
6 100 of this Act;

7 (20) Timelines, deadlines, and scheduling;

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

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

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

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

18 (25) Procedures for amendment to the agreement.

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

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

23 (2) Cash reserves requirements;

24 (3) Delivery of performance and payment bonds or other
25 performance security in a form and amount that is
26 satisfactory to the Department;

- 1 (4) Maintenance of public liability insurance;
- 2 (5) Maintenance of self-insurance;
- 3 (6) Provisions governing grants and loans, pursuant to
4 which the Department may agree to make grants or loans for
5 the development, financing, construction, management, or
6 operation of the Illiana Expressway project from time to
7 time from amounts received from the federal government or
8 any agency or instrumentality of the federal government or
9 from any State or local agency;
- 10 (7) Reimbursements to the Department for work
11 performed and goods, services, and equipment provided by
12 the Department; and
- 13 (8) All other terms, conditions, and provisions
14 acceptable to the Department that the Department deems
15 necessary and proper and in the public interest.

16 (Source: P.A. 96-913, eff. 6-9-10; 97-808, eff. 7-13-12.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."