



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5813

by Rep. Brian W. Stewart

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2705/2705-233 new

20 ILCS 3501/825-108 new

30 ILCS 500/1-10.5 new

30 ILCS 535/85 new

30 ILCS 570/2.8 new

30 ILCS 575/2.8 new

735 ILCS 30/15-5-48 new

820 ILCS 130/2

from Ch. 48, par. 39s-2

Creates the Innovations for Transportation Infrastructure Act. Provides that the Department of Transportation and the Illinois State Toll Highway Authority may evaluate and use alternative technical concepts proposed by bidders and proposers, and to use design-build and construction manager-general contractor project delivery methods. Contains provisions concerning the procurement process and terms of design-build and construction manager-general contractor contracts. Provides that the Department and the Authority have eminent domain and quick take powers under the Act. Makes conforming changes. Effective immediately.

LRB099 16769 AXK 41113 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Innovations for Transportation Infrastructure Act.

6 Section 5. Legislative policy.

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

10 (b) The design-build and construction manager-general
11 contractor project delivery methods and use of alternative
12 technical concepts have the potential to capture private sector
13 innovation and safely deliver infrastructure projects on more
14 predictable schedules and budgets. Earlier completion and
15 lower cost for projects are possible with the ability to shift
16 or share risks with the private sector that are generally
17 retained by the public in the conventional design-bid-build
18 project delivery method.

19 (c) It is the intent of the General Assembly that the
20 Department of Transportation and the Illinois State Toll
21 Highway Authority may evaluate and use alternative technical
22 concepts proposed by bidders and proposers and to use the DB
23 and CMGC project delivery methods.

1 (d) It is the intent of this Act to use design
2 professionals, construction companies, and workers from this
3 State to the greatest extent possible.

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

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

7 "Agency" means the Department of Transportation or the
8 Illinois State Toll Highway Authority.

9 "ATC" means alternative technical concepts.

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

12 "Best value" means any selection process in which proposals
13 contain both price and qualitative components and award is
14 based upon a combination of price, qualitative concepts, and
15 other factors.

16 "Chief procurement officer" means the chief procurement
17 officer for the Department or the Authority.

18 "CMGC contract" means the two-phase contract between the
19 Department or the Authority and a construction manager-general
20 contractor, which includes a first phase addressing
21 preconstruction services and a second phase addressing the
22 construction of the transportation facility.

23 "Construction manager-general contractor" or "CMGC" means
24 a proposer that has entered into a construction manager-general
25 contractor contract under this Act.

1 "Construction manager-general contractor project delivery
2 method" or "CMGC project delivery method" means a method of
3 procurement and contracting that makes a CMGC who enters into a
4 contract with the Department or the Authority responsible for
5 certain preconstruction services and then, if the parties reach
6 agreement on key terms, responsible for construction of the
7 transportation facility.

8 "DB" means design-build.

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

11 "Design-bid-build project delivery method" means the
12 traditional method of procuring and contracting for design and
13 construction services used in this State, which incorporates
14 the Architectural, Engineering, and Land Surveying
15 Qualifications Based Selection Act and the principles of
16 competitive bidding under the Illinois Procurement Code.

17 "Design-build contract" or "DB contract" means a contract
18 between the Department or the Authority and a design-builder
19 under which the design-builder agrees to furnish
20 architectural, surveying, engineering, construction, and
21 related services for a transportation facility.

22 "Design-build project delivery method" or "DB project
23 delivery method" means a method of procurement and contracting
24 that provides responsibility within a single contract between
25 the Department or the Authority and a design-builder for the
26 furnishing of architectural, surveying, engineering,

1 construction, and related services for a transportation
2 facility.

3 "Design-builder" means a proposer that has entered into a
4 design-build contract with the Department or the Authority
5 under this Act.

6 "Evaluation Committee" means the committee assembled to
7 evaluate and score statements of qualifications and proposals.

8 "Evaluation criteria" means the standards and requirements
9 established by the Department or the Authority against which
10 the qualifications and proposals of a proposer will be assessed
11 during the procurement of a design-build contract or
12 construction manager-general contractor contract, as
13 applicable.

14 "Executive Director" means the Executive Director of the
15 Illinois State Toll Highway Authority.

16 "Metropolitan planning organization" means a metropolitan
17 planning organization under 23 U.S.C. 134 whose metropolitan
18 planning area boundaries are partially or completely within
19 this State.

20 "Preconstruction services" means all
21 non-construction-related services that a construction
22 manager-general contractor is required to perform during the
23 first phase of a construction manager-general contractor
24 contract, which may include giving advice to the Department or
25 the Authority regarding scheduling, work sequencing, cost
26 engineering, constructability, cost estimating, and risk

1 identification.

2 "Proposal" means a proposer's response to a request for
3 proposals.

4 "Proposer" means any individual, sole proprietorship,
5 firm, partnership, joint venture, corporation, professional
6 corporation, or other entity legally established to conduct
7 business in this State that proposes to be the design-build or
8 construction manager-general contractor for any transportation
9 facility under this Act.

10 "Qualifications" means a statement of qualifications
11 submitted by a proposer in response to a request for
12 qualifications.

13 "Request for proposals" means the document issued by the
14 Department or the Authority to solicit proposals and describe
15 the procurement process for a design-build contract or
16 construction manager-general contractor contract in accordance
17 with the design-build project delivery method or the
18 construction manager-general contractor project delivery
19 method, as applicable.

20 "Request for qualifications" means the document issued by
21 the Department or the Authority in the first phase of a
22 two-phase procurement to solicit qualifications from proposers
23 in accordance with the design-build project delivery method or
24 the construction manager-general contractor project delivery
25 method, as applicable.

26 "Scope and performance requirements" means the constructed

1 elements, activities, and standards of performance required by
2 the Department or the Authority to be complied with in the
3 development of the transportation facility, which may include,
4 but not be limited to, the intended usage, capacity, size,
5 scope, quality and performance standards, life-cycle costs,
6 preliminary engineering, design, and other requirements as
7 developed and determined by the Department or the Authority.

8 "Secretary" means the Secretary of Transportation of the
9 Illinois Department of Transportation.

10 "Transportation facility" means any new or existing
11 facility or group of facilities that are the subject of a
12 design-build contract or a construction manager-general
13 contractor contract, and which may include highways, roads,
14 bridges, tunnels, overpasses, ferries, airports or other
15 aviation facilities, public transportation facilities, vehicle
16 parking facilities, seaport facilities, rail facilities,
17 intermodal facilities, transit facilities, or similar
18 facilities used for the transportation of persons or goods.

19 Section 15. Authorization of project delivery methods.

20 (a) Notwithstanding any other law, and as authority
21 supplemental to its existing powers, the Agency, in accordance
22 with this Act, may use the design-build project delivery method
23 or the CMGC project delivery method for transportation
24 facilities; provided that, prior to commencing a procurement
25 under this Act for either a design-build contract or a CMGC

1 contract, the Agency has first undertaken an analysis and made
2 a written determination that it is in the best interests of
3 this State to utilize the selected delivery method for that
4 transportation facility. The analysis and determination shall
5 discuss the design-build or CMGC project delivery method's
6 impact on the anticipated schedule, completion date, and
7 project costs. The best interests of the State analysis shall
8 be made available to the public.

9 (b) The Agency shall report to the General Assembly
10 annually for the first 5 years after the effective date of this
11 Act on the progress of procurements and transportation
12 facilities procured under this Act.

13 Section 20. Preconditions to commencement of procurement.

14 If the Agency determines to use the design-build project
15 delivery method or the CMGC project delivery method for a
16 particular transportation facility, the Agency shall not
17 commence a procurement for the transportation facility until:

18 (1) the Agency determines that the transportation facility
19 is consistent with the regional plan of any metropolitan
20 planning organization in which the boundaries of the
21 transportation facility are located; and

22 (2) the Agency completes at least one of the following:

23 (A) includes the transportation facility in the
24 Department's Multi-Year Highway Improvement Program;

25 (B) issues a notice of intent to receive qualifications

1 at least 14 days prior to the issuance of the request for
2 qualifications; or

3 (C) for a single phase procurement under subsection (a)
4 of Section 25 of this Act, issues a notice of intent to
5 receive proposals at least 14 days prior to the issuance of
6 the request for proposals. If the Agency issues this notice
7 of intent, the Department shall publish the notice in the
8 Department's Transportation Procurement Bulletin. The
9 Agency shall include a description of the proposed
10 procurement and transportation facility in any notice of
11 intent.

12 Section 25. Procurement process.

13 (a) The Agency may solicit a proposer with which to enter
14 into a design-build contract or CMGC contract, as applicable,
15 by using, without limitation, one or more requests for
16 qualifications, short-listing of the most highly qualified
17 proposers, or requests for proposals and negotiations. The
18 Agency shall use a two-phase procurement for a design-build
19 contract to select the successful proposer; provided that the
20 Agency may use a single phase procurement if the transportation
21 facility is estimated to cost less than \$10,000,000 or the
22 Secretary of Transportation or the Executive Director makes a
23 written determination that the Agency may use a single phase
24 procurement for a particular transportation facility. In a
25 two-phase procurement, the Agency shall use the first phase to

1 evaluate and short-list the most highly qualified proposers
2 based on qualifications, and then use the second phase to
3 evaluate and select a proposer based on proposals submitted by
4 the short-listed proposers. In a single phase procurement, the
5 Agency shall solicit proposers with a request for proposals,
6 and shall evaluate and select a proposer based on those
7 proposals.

8 (b) The request for qualifications may contain any
9 information deemed appropriate by the Agency including,
10 without limitation, the following information:

11 (1) the anticipated scope of work for the
12 transportation facility;

13 (2) a requirement that the proposer identify certain
14 key personnel, and for DB contracts certain key firms, the
15 experience of the personnel and firms, and the conditions
16 on which identified personnel and firms can be replaced;

17 (3) the evaluation criteria for the qualifications and
18 the relative importance of those criteria; these
19 evaluation criteria may address, without limitation, the
20 proposer's technical and financial qualifications, such as
21 specialized experience, technical competence, capability
22 to perform, financial capacity, past performance,
23 including the proposer's safety record, and any other
24 qualifications based factors;

25 (4) the Agency's established prequalification,
26 licensing, and registration requirements, including any

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

10 (5) the maximum number of proposers the Agency will
11 short-list to submit proposals; and

12 (6) any other relevant information the Agency deems
13 appropriate.

14 (c) Upon completion of the qualifications evaluation, the
15 Agency shall, based on the evaluation criteria set forth in the
16 request for qualifications, create a short-list of the most
17 highly qualified proposers. The Agency shall short-list no more
18 than 5 and no fewer than 2 of the most highly qualified
19 proposers. Notwithstanding other provisions of this subsection
20 (c), the Agency may short-list fewer than 2 proposers if the
21 Secretary of Transportation or the Executive Director make a
22 finding that an emergency situation justifies the limited
23 short-listing and fewer than 2 proposers meet any applicable
24 prequalification and pass/fail requirements set forth in the
25 request for qualifications.

26 (d) The request for proposals may contain any information

1 deemed appropriate by the Agency including, without
2 limitation, the following information:

3 (1) the form and amount of required bid security;

4 (2) the terms of the DB or CMGC contract including, but
5 not limited to, scope and performance requirements,
6 schedule or completion date requirements, subcontractor
7 requirements, payment and performance security
8 requirements, and insurance requirements;

9 (3) a requirement for the proposer to submit plans
10 regarding how it will:

11 (A) comply the utilization requirements for
12 business enterprises established in the Business
13 Enterprise for Minorities, Females, and Persons with
14 Disabilities Act, or federal law or regulations that
15 establish standards and procedures for the utilization
16 of minority, disadvantaged, and female-owned
17 businesses; and

18 (B) comply with Section 2-105 of the Illinois Human
19 Rights Act;

20 (4) the requirements for the technical component of the
21 proposal, including a description of the level of design,
22 scope and type of renderings, drawings, and specifications
23 to be provided in the proposals;

24 (5) the requirements for the price component of the
25 proposal, which for CMGC contracts may include a
26 requirement for the proposer to submit a lump sum price for

1 the direct costs to perform the required preconstruction
2 services and percentage mark-up on those direct costs;

3 (6) the evaluation criteria for the proposals and the
4 relative importance of those criteria, including any
5 formulas to be employed by the Agency, as the Agency deems
6 appropriate;

7 (7) a process for the Agency to review and accept
8 alternate technical concepts;

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

11 (9) any other relevant information the Agency deems
12 appropriate.

13 (e) Prior to the proposers' submittal of proposals, the
14 Agency may conduct confidential meetings and exchange
15 confidential information with proposers to promote
16 understanding of the request for proposals, review alternative
17 technical concepts, or discuss other issues related to the
18 procurement.

19 (f) The date proposals are due must be at least 28 calendar
20 days after the date the Agency first issues the request for
21 proposals.

22 (g) The Agency may offer to pay a stipend in an amount and
23 on the terms and conditions determined by the Agency and as set
24 forth in the request for proposals to (1) all short-listed
25 proposers if the Agency cancels the procurement before the due
26 date for proposals; or (2) each unsuccessful proposer that

1 submits a responsive proposal. The Agency may pay a stipend
2 only to those proposers who grant to the Agency the right to
3 use any work product contained in the unsuccessful proposer's
4 proposal and other proposal-related submissions or, if the
5 Agency cancels the procurement before the due date for
6 proposals, any work product developed prior to cancellation,
7 including technologies, techniques, methods, processes, and
8 information contained in the recipient's design for the
9 transportation facility.

10 (h) The Agency shall, as appropriate depending on whether
11 the transportation facility includes building facilities,
12 directly employ or retain a professional engineer or engineers
13 licensed in the State or a licensed architect or architects, or
14 both engineers licensed in this State and licensed architects,
15 to prepare the scope and assist in the evaluation of the
16 proposals' technical submissions under a design-build project
17 delivery method. The professional engineers and licensed
18 architects performing these services are generally precluded
19 from participating in the procurement of the transportation
20 facility at issue as a member of a proposer team.

21 (i) The Agency shall have the right to reject any and all
22 qualifications or proposals, including, but not limited to, the
23 right to reject any qualifications or proposals as
24 non-responsive if, in the Agency's sole discretion, the
25 qualifications or proposals do not meet all material
26 requirements of the request for qualifications or request for

1 proposals, as appropriate. The Agency shall not consider a
2 proposal that does not include:

3 (1) the proposer's plan to comply with requirements
4 established by the Agency regarding utilization of
5 business enterprises, including disadvantaged business
6 enterprises; or

7 (2) bid security in the form and amount designated in
8 the request for proposals.

9 (j) The Agency shall consult with the chief procurement
10 officer on the DB and the CMGC procurement processes, and the
11 Secretary or the Executive Director, in consultation with the
12 chief procurement officer, shall determine which procedures to
13 adopt and apply to the design-build and CMGC procurement
14 processes in order to ensure an open, transparent, and
15 efficient process that accomplishes the purposes of this Act.

16 Section 30. Evaluation committee.

17 (a) The Agency shall establish one or more evaluation
18 committees to assist in selecting a DB and a CMGC. The Agency
19 shall, in its sole discretion, determine the appropriate size
20 and composition of the evaluation committee, including how many
21 members of the committee must be licensed design professionals.

22 (b) The Agency may establish an evaluation committee for a
23 set term or for the procurement of a particular transportation
24 facility.

25 (c) Once the Agency identifies the proposers for a

1 transportation facility, each member of an evaluation
2 committee must certify that no conflict of interest exists
3 between the member and the proposers. If the Agency, after
4 consultation with the chief procurement officer, determines
5 that an actual conflict exists, the member shall not
6 participate on the evaluation committee for that procurement
7 and the Agency shall appoint a replacement member on either a
8 permanent or temporary basis.

9 Section 35. Procedures for selection. The Agency shall
10 review, evaluate, rank, and score proposals and determine which
11 proposal offers the best value to the public based on the
12 evaluation criteria set forth in the request for proposals, and
13 shall award the contract based on those determinations.
14 Notwithstanding other provisions of this Section, if for any
15 reason the proposer awarded the contract is unable or unwilling
16 to execute the contract, including the failure of the proposer
17 and the Agency to successfully complete negotiations, if any,
18 of the contract, the Agency may award the contract to the
19 proposer whose proposal the Agency determines offers the public
20 the next best value.

21 Section 40. Project records; confidentiality; public
22 disclosure.

23 (a) The Agency shall maintain all written decisions,
24 qualification and proposal evaluations, scoring documents,

1 selection evaluations, proposals, and procurement documents in
2 a procurement file maintained by the Agency.

3 (b) A proposer may identify those portions of a proposal or
4 other submission that the proposer considers to be trade
5 secrets or confidential, commercial, financial, or proprietary
6 information. To consider confidential and proprietary
7 information, including trade secrets, to be exempt from
8 disclosure, the proposer shall do all of the following:

9 (1) request exclusion from disclosure upon submission
10 of the information or other materials for which protection
11 is sought;

12 (2) identify the data or other materials for which
13 protection is sought;

14 (3) state the statutory or regulatory basis for the
15 protection;

16 (4) fully comply with the federal Freedom of
17 Information Act and any other applicable provisions of
18 State law, including, but not limited to, the Freedom of
19 Information Act, with respect to information the proposer
20 contends should be exempt from disclosure; and

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

23 (c) Notwithstanding any other provision of law, in order to
24 properly balance the need to maximize competition under this
25 Act with the need to create a transparent procurement process,
26 the qualifications, proposals, and other information and

1 documents submitted by proposers and the Agency's evaluation
2 records shall not be subject to release or disclosure by the
3 Agency until execution of the DB contract or CMGC contract, as
4 applicable. If the Agency terminates the procurement for a
5 transportation facility, the exemption from release or
6 disclosure under this Section shall remain in place until the
7 Agency re-procures the transportation facility and has entered
8 into a DB contract or CMGC contract, as applicable. However,
9 this exemption shall lapse if the Agency does not commence the
10 re-procurement of the transportation facility within 5 years of
11 the termination.

12 Section 45. Design-build contract. A DB contract may
13 include any provisions the Agency determines are necessary or
14 appropriate, including, but not limited to, provisions
15 regarding the following:

- 16 (1) compensation or payments to the DB;
- 17 (2) grounds for termination of the DB contract,
18 including the Agency's right to terminate for convenience;
- 19 (3) liability for damages and nonperformance;
- 20 (4) events of default and the rights and remedies
21 available to the design-builder and the Agency in the event
22 of a default or delay;
- 23 (5) terms for the DB's compliance with requirements
24 pertaining to business enterprises, including
25 disadvantaged business enterprises, and with Section 2-105

1 of the Illinois Human Rights Act;

2 (6) the identification of any technical specifications
3 that the DB must comply with when developing plans or
4 performing construction work;

5 (7) the procedures for review and approval of the DB's
6 plans;

7 (8) required performance and payment security;

8 (9) the terms and conditions of indemnification and
9 minimum insurance requirements; and

10 (10) any other terms and conditions the Agency deems
11 necessary.

12 Section 50. Construction manager-general contractor
13 contract.

14 (a) The CMGC contract shall divide the CMGC services into 2
15 phases. The first phase shall address preconstruction services
16 and the procedures the parties shall follow to finalize the
17 contract terms for the second phase. The second phase shall
18 address the CMGC's construction of the transportation facility
19 for a lump sum or a guaranteed maximum price.

20 (b) A CMGC contract shall include provisions regarding the
21 following:

22 (1) the CMGC's provision of preconstruction services
23 during the first phase of the contract, including the
24 CMGC's compensation for those services;

25 (2) a requirement that, during the first phase of the

1 contract, the CMGC shall use a competitive bidding process
2 to procure subcontracts for at least 70% of the
3 construction work, provided that:

4 (A) compliance with this requirement shall be
5 based on an estimated cost for the construction work
6 approved by the Agency prior to the start of the
7 competitive bidding process; and

8 (B) the CMGC may not use subcontracts with its
9 wholly or partially owned subsidiaries, parent
10 companies, or affiliates to satisfy this obligation;

11 (3) the process the Agency and the CMGC will use to
12 determine a lump sum or guaranteed maximum price for the
13 construction work, which shall include a requirement that
14 the Agency conduct an independent cost estimate for the
15 construction work; and

16 (4) grounds for termination of the CMGC contract,
17 including the Agency's right to terminate the contract and
18 not proceed with the construction phase of the project if
19 the Agency and the CMGC are unable to negotiate a lump sum
20 or guaranteed maximum price for the construction work.

21 (c) In addition to the provisions under subsection (b) of
22 this Section, a CMGC contract may include any other provisions
23 the Agency determines are necessary or appropriate, including,
24 but not limited to, provisions regarding the following:

25 (1) liability for damages and nonperformance;

26 (2) events of default and the rights and remedies

1 available to the CMGC and the Agency in the event of a
2 default or delay;

3 (3) terms for the CMGC's compliance with requirements
4 pertaining to business enterprises, including
5 disadvantaged business enterprises, and with Section 2-105
6 of the Illinois Human Rights Act for any construction work
7 performed under the CMGC contract;

8 (4) the identification of any technical specifications
9 that the CMGC must comply with when aiding the Agency with
10 developing plans or performing construction work;

11 (5) required performance and payment security for the
12 construction phase of the contract;

13 (6) the terms and conditions of indemnification and
14 minimum insurance requirements; and

15 (7) any other terms and conditions the Agency deems
16 necessary.

17 (d) If the CMGC contract is terminated for any reason, the
18 Agency may, in its sole discretion, re-advertise the CMGC
19 contract under this Act or use any other authorized procurement
20 method to complete the transportation facility or any portion
21 of the transportation facility. Once the contract is
22 terminated, the Agency may use any work product developed by
23 the CMGC to complete the transportation facility.

24 Section 55. Funding; financing.

25 (a) The Agency may utilize any lawful source of funding and

1 financing to compensate a DB and CMGC for work and services
2 performed under a DB contract or CMGC contract, as applicable,
3 and the Agency may combine federal, State, local, and private
4 funds to finance a transportation facility.

5 (b) Subject to appropriation by the General Assembly of the
6 required amounts, the Agency may obligate and make expenditures
7 of funds as and when needed to satisfy its payment obligations
8 under a DB contract or CMGC contract.

9 (c) The Agency may impose, for no more than 5 years,
10 financing obligations and other financial responsibilities on
11 a design-builder in order to finance the costs of a
12 transportation facility.

13 Section 60. Acquisition of property; related agreements.
14 The Agency may exercise any and all powers of condemnation or
15 eminent domain, including quick-take powers, to acquire lands
16 or estates or interests in land for a transportation facility
17 under this Act to the extent the Agency finds that the action
18 serves the public purpose of this Act and deems the action
19 appropriate in the exercise of its powers under this Act. In
20 addition, the Agency and a DB or CMGC may enter into leases,
21 licenses, easements, and other grants of property interests
22 that the Agency determines are necessary to deliver a
23 transportation facility under this Act.

24 Section 65. Federal requirements. In the procurement of DB

1 contracts and CMGC contracts, the Agency shall, to the extent
2 necessary, comply with federal law and regulations and take all
3 necessary steps to adapt its rules, policies, and procedures to
4 remain eligible for federal aid.

5 Section 70. Powers. The powers granted to the Agency under
6 this Act, including the power to procure and enter into DB and
7 CMGC contracts, shall be liberally construed to accomplish its
8 purpose, are in addition to any existing powers of the Agency,
9 and shall not affect or impair any other powers authorized
10 under applicable law.

11 Section 75. Rulemaking.

12 (a) The Illinois Administrative Procedure Act applies to
13 all administrative rules and procedures of the Agency under
14 this Act, except that nothing in this Act shall be construed to
15 render any prequalification or other responsibility criteria
16 as a "license" or "licensing" under that Act.

17 (b) The Agency, in consultation with the chief procurement
18 officer, may adopt rules to carry out the provisions of this
19 Act.

20 Section 905. The Department of Transportation Law of the
21 Civil Administrative Code of Illinois is amended by adding
22 Section 2705-233 as follows:

1 (20 ILCS 2705/2705-233 new)

2 Sec. 2705-233. Design-build and construction
3 manager-general contractor for the transportation
4 infrastructure. The Department may exercise all powers granted
5 to it under the Innovations for Transportation Infrastructure
6 Act, including, but not limited to, the power to enter into all
7 contracts or agreements necessary or incidental to the
8 performance of its powers under that Act, and powers related to
9 any transportation facility implemented under that Act.

10 Section 910. The Illinois Finance Authority Act is amended
11 by adding Section 825-108 as follows:

12 (20 ILCS 3501/825-108 new)

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

20 Section 915. The Illinois Procurement Code is amended by
21 adding Section 1-10.5 as follows:

22 (30 ILCS 500/1-10.5 new)

1 Sec. 1-10.5. Alternative technical concepts.
2 Notwithstanding subsection (b) of Section 1-10 of this Code,
3 the Department of Transportation and the Illinois State Toll
4 Highway Authority may allow bidders and proposers to submit
5 alternative technical concepts in their bids and proposals,
6 provided the Department or Authority determines that the
7 alternative technical concepts provide an equal or better
8 solution than the underlying technical requirements applicable
9 to the work. If the Department or Authority allow bidders or
10 proposers for a particular contract to submit alternative
11 technical concepts, the Department or Authority shall describe
12 the process for alternative technical concept submission and
13 evaluation in the procurement documents for that contract,
14 including the potential use of confidential meetings and the
15 exchange of confidential information with bidders and
16 proposers to review and discuss potential or proposed
17 alternative technical concepts.

18 Section 920. The Architectural, Engineering, and Land
19 Surveying Qualifications Based Selection Act is amended by
20 adding Section 85 as follows:

21 (30 ILCS 535/85 new)

22 Sec. 85. Design-build and construction manager-general
23 contractor contracts. This Act shall not apply to the
24 procurement of or contracting for transportation facilities

1 using design-build contracts and construction manager-general
2 contractor contracts under the Innovations for Transportation
3 Infrastructure Act.

4 Section 925. The Employment of Illinois Workers on Public
5 Works Act is amended by adding Section 2.8 as follows:

6 (30 ILCS 570/2.8 new)

7 Sec. 2.8. Design build and construction manager-general
8 contractor contracts. This Act applies to any construction work
9 undertaken under design build contracts and construction
10 manager-general contractor contracts entered into under the
11 Innovations for Transportation Infrastructure Act.

12 Section 930. The Business Enterprise for Minorities,
13 Females, and Persons with Disabilities Act is amended by adding
14 Section 2.8 as follows:

15 (30 ILCS 575/2.8 new)

16 Sec. 2.8. Design build and construction manager-general
17 contractor contracts. This Act applies to any construction work
18 undertaken under design build contracts and construction
19 manager-general contractor contracts entered into under the
20 Innovations for Transportation Infrastructure Act.

21 Section 935. The Eminent Domain Act is amended by adding

1 Section 15-5-48 as follows:

2 (735 ILCS 30/15-5-48 new)

3 Sec. 15-5-48. Eminent domain powers in new Acts. The
4 following provisions of law may include express grants of the
5 power to acquire property by condemnation or eminent domain:

6 The Innovations for Transportation Infrastructure Act; for
7 the purposes of constructing a transportation facility under
8 the Act.

9 Section 940. The Prevailing Wage Act is amended by changing
10 Section 2 as follows:

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

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

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

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

1 loans, or other funds made available by or through the State or
2 any of its political subdivisions, including but not limited
3 to: bonds issued under the Industrial Project Revenue Bond Act
4 (Article 11, Division 74 of the Illinois Municipal Code), the
5 Industrial Building Revenue Bond Act, the Illinois Finance
6 Authority Act, the Illinois Sports Facilities Authority Act, or
7 the Build Illinois Bond Act; loans or other funds made
8 available pursuant to the Build Illinois Act; loans or other
9 funds made available pursuant to the Riverfront Development
10 Fund under Section 10-15 of the River Edge Redevelopment Zone
11 Act; or funds from the Fund for Illinois' Future under Section
12 6z-47 of the State Finance Act, funds for school construction
13 under Section 5 of the General Obligation Bond Act, funds
14 authorized under Section 3 of the School Construction Bond Act,
15 funds for school infrastructure under Section 6z-45 of the
16 State Finance Act, and funds for transportation purposes under
17 Section 4 of the General Obligation Bond Act. "Public works"
18 also includes (i) all projects financed in whole or in part
19 with funds from the Department of Commerce and Economic
20 Opportunity under the Illinois Renewable Fuels Development
21 Program Act for which there is no project labor agreement; (ii)
22 all work performed pursuant to a public private agreement under
23 the Public Private Agreements for the Illiana Expressway Act or
24 the Public-Private Agreements for the South Suburban Airport
25 Act; ~~and~~ (iii) all projects undertaken under a public-private
26 agreement under the Public-Private Partnerships for

1 Transportation Act; and (iv) all transportation facilities
2 undertaken under a design-build contract or a construction
3 manager-general contractor contract under the Innovations for
4 Transportation Infrastructure Act. "Public works" also
5 includes all projects at leased facility property used for
6 airport purposes under Section 35 of the Local Government
7 Facility Lease Act. "Public works" also includes the
8 construction of a new wind power facility by a business
9 designated as a High Impact Business under Section 5.5(a)(3)(E)
10 of the Illinois Enterprise Zone Act. "Public works" does not
11 include work done directly by any public utility company,
12 whether or not done under public supervision or direction, or
13 paid for wholly or in part out of public funds. "Public works"
14 also includes any corrective action performed pursuant to Title
15 XVI of the Environmental Protection Act for which payment from
16 the Underground Storage Tank Fund is requested. "Public works"
17 does not include projects undertaken by the owner at an
18 owner-occupied single-family residence or at an owner-occupied
19 unit of a multi-family residence. "Public works" does not
20 include work performed for soil and water conservation purposes
21 on agricultural lands, whether or not done under public
22 supervision or paid for wholly or in part out of public funds,
23 done directly by an owner or person who has legal control of
24 those lands.

25 "Construction" means all work on public works involving
26 laborers, workers or mechanics. This includes any maintenance,

1 repair, assembly, or disassembly work performed on equipment
2 whether owned, leased, or rented.

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

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

25 The terms "general prevailing rate of hourly wages",
26 "general prevailing rate of wages" or "prevailing rate of

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

8 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;
9 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.
10 7-16-14.)

11 Section 997. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.