



Sen. Martin A. Sandoval

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LRB099 20724 MRW 48349 a

1 AMENDMENT TO SENATE BILL 3020

2 AMENDMENT NO. _____. Amend Senate Bill 3020, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 Section 5. Legislative policy.

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

11 (b) The design-build project delivery method and
12 Construction Manager/General Contractor project delivery
13 method and use of Alternative Technical Concepts have the
14 potential to capture private sector innovation and safely
15 deliver infrastructure projects on more predictable schedules
16 and budgets. Earlier completion and lower cost for projects are

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

4 (c) It is the intent of the General Assembly that the
5 Department of Transportation and the Illinois State Toll
6 Highway Authority may evaluate and use Alternative Technical
7 Concepts proposed by bidders and proposers and to use the
8 design-build project delivery method and Construction
9 Manager/General Contractor project delivery method.

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

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

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

16 "Alternative Technical Concepts" means a proposed
17 deviation from the contract technical requirements set forth in
18 the procurement documents for a transportation facility that
19 offers a solution that is equal or better than the requirements
20 in the procurement documents.

21 "Authority" means the Illinois State Toll Highway
22 Authority.

23 "Best value" means any selection process in which proposals
24 contain both price and qualitative components and award is
25 based upon a combination of price, qualitative concepts, and

1 other factors.

2 "Chief procurement officer" means the chief procurement
3 officer for the Transportation Agency.

4 "Construction Manager/General Contractor" means a proposer
5 that has entered into a Construction Manager/General
6 Contractor contract under this Act.

7 "Construction Manager/General Contractor contract" means
8 the two-phase contract between the Transportation Agency and a
9 Construction Manager/General Contractor, which includes a
10 first phase addressing preconstruction services and a second
11 phase addressing the construction of the transportation
12 facility.

13 "Construction Manager/General Contractor project delivery
14 method" means a method of procurement and contracting that
15 makes a Construction Manager/General Contractor who enters
16 into a contract with the Transportation Agency responsible for
17 certain preconstruction services and then, if the parties reach
18 agreement on key terms, responsible for construction of the
19 transportation facility.

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
24 services and construction services used separately in this
25 State, which incorporates the Architectural, Engineering, and
26 Land Surveying Qualifications Based Selection Act and the

1 principles of competitive bidding under the Illinois
2 Procurement Code.

3 "Design-build contract" means a contract between the
4 Transportation Agency and a design-builder under which the
5 design-builder agrees to furnish architectural, surveying,
6 engineering, construction, and related services for a
7 transportation facility.

8 "Design-build project delivery method" means a method of
9 procurement and contracting that provides responsibility
10 within a single contract between the Transportation Agency and
11 a design-builder for the furnishing of architectural,
12 surveying, engineering, construction, and related services for
13 a transportation facility.

14 "Design-builder" means a proposer that has entered into a
15 design-build contract with the Transportation Agency under
16 this Act.

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

19 "Evaluation criteria" means the standards and requirements
20 established by the Transportation Agency against which the
21 qualifications and proposals of a proposer will be assessed
22 during the procurement of a design-build contract or
23 Construction Manager/General Contractor contract, as
24 applicable.

25 "Executive Director" means the Executive Director of the
26 Illinois State Toll Highway Authority.

1 "Metropolitan planning organization" means a metropolitan
2 planning organization under 23 U.S.C. 134 whose metropolitan
3 planning area boundaries are partially or completely within
4 this State.

5 "Preconstruction services" means all
6 non-construction-related services that a Construction
7 Manager/General Contractor is required to perform during the
8 first phase of a Construction Manager/General Contractor
9 contract, which may include, but is not limited to, giving
10 advice to the Transportation Agency regarding scheduling, work
11 sequencing, cost engineering, constructability, cost
12 estimating, and risk identification.

13 "Proposal" means a proposer's response to a request for
14 proposals.

15 "Proposer" means any individual, sole proprietorship,
16 firm, partnership, joint venture, corporation, professional
17 corporation, or other entity legally established to conduct
18 business in this State that proposes to be the design-builder
19 or Construction Manager/General Contractor for any
20 transportation facility under this Act.

21 "Qualifications" means a statement of qualifications
22 submitted by a proposer in response to a request for
23 qualifications.

24 "Request for proposals" means the document issued by the
25 Transportation Agency to solicit proposals and describe the
26 procurement process for a design-build contract or

1 Construction Manager/General Contractor contract in accordance
2 with the design-build project delivery method or the
3 Construction Manager/General Contractor project delivery
4 method, as applicable.

5 "Request for qualifications" means the document issued by
6 the Transportation Agency in the first phase of a two-phase
7 procurement to solicit qualifications from proposers in
8 accordance with the design-build project delivery method or the
9 Construction Manager/General Contractor project delivery
10 method, as applicable.

11 "Scope and performance requirements" means the activities,
12 constructed elements, and standards of performance the
13 Transportation Agency requires the design-builder or the
14 Construction Manager/General Contractor to comply with in the
15 development of the transportation facility, which may include,
16 but is not be limited to, the intended usage, capacity, size,
17 scope, quality and performance standards, life-cycle costs,
18 preliminary engineering, design, and other requirements as
19 developed and determined by the Transportation Agency.

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

22 "Transportation Agency" means the Illinois Department of
23 Transportation or the Illinois State Toll Highway Authority.

24 "Transportation facility" means any new or existing
25 facility or group of facilities that are the subject of a
26 design-build contract or a Construction Manager/General

1 Contractor contract, and which may include highways, roads,
2 bridges, tunnels, overpasses, bus ways, guideways, ferries,
3 airports or other aviation facilities, public transportation
4 facilities, vehicle parking facilities, port facilities, rail
5 facilities, stations, hubs, terminals, intermodal facilities,
6 transit facilities, or similar facilities used for the
7 transportation of persons or goods, together with any
8 buildings, structures, parking areas, appurtenances,
9 intelligent transportation systems, and other property or
10 facilities related to the operation or maintenance of these
11 facilities.

12 Section 15. Authorization of project delivery methods.

13 (a) Notwithstanding any other law, and as authority
14 supplemental to its existing powers, the Transportation
15 Agency, in accordance with this Act, may use the design-build
16 project delivery method for transportation facilities,
17 provided that the capital costs for transportation facilities
18 delivered utilizing the design-build project delivery method
19 or Construction Manager/General Contractor project delivery
20 method or Alternative Technical Concepts in a design-bid-build
21 project delivery method do not: (i) for transportation
22 facilities delivered by the Department, exceed 20% of the
23 Department's multi-year highway improvement program for any
24 5-year period with no one year period exceeding 30%; or (ii)
25 for transportation facilities delivered by the Authority,

1 exceed 20% of the Authority's annual improvement program. The
2 Transportation Agency shall make this calculation prior to
3 commencing the procurement. Notwithstanding any other law, and
4 as authority supplemental to its existing power, the
5 Department, in accordance with this Act, may use the
6 Construction Manager/General Contractor project delivery
7 method for up to 2 transportation facilities. Prior to
8 commencing a procurement under this Act for either a
9 design-build contract or a Construction Manager/General
10 Contractor contract, the Transportation Agency shall first
11 undertake an analysis and make a written determination that it
12 is in the best interests of this State to utilize the selected
13 delivery method for that transportation facility. The analysis
14 and determination shall discuss the design-build project
15 delivery method or Construction Manager/General Contractor
16 project delivery method's impact on the anticipated schedule,
17 completion date, and project costs. The best interests of the
18 State analysis shall be made available to the public.

19 (b) The Transportation Agency shall report to the General
20 Assembly annually for the first 5 years after the effective
21 date of this Act on the progress of procurements and
22 transportation facilities procured under this Act.

23 Section 20. Preconditions to commencement of procurement.

24 If the Transportation Agency determines to use the
25 design-build project delivery method or the Construction

1 Manager/General Contractor project delivery method for a
2 particular transportation facility, the Transportation Agency
3 may not commence a procurement for the transportation facility
4 until the Transportation Agency has satisfied the requirements
5 of both paragraphs (1) and (2) of this Section:

6 (1) the Transportation Agency does one of the following:

7 (A) the Transportation Agency includes the
8 transportation facility in the Transportation Agency's
9 respective multi-year highway improvement program and
10 designates it as a design-build project delivery method
11 project or Construction Manager/General Contractor
12 project;

13 (B) the Transportation Agency has issued a notice of
14 intent to receive qualifications, that includes a
15 description of the proposed procurement and transportation
16 facility, at least 14 days prior to the issuance of the
17 request for qualifications, and for a Department issued
18 notice of intent shall publish the notice in the Illinois
19 Transportation Procurement Bulletin and for an Authority
20 issued notice of intent shall publish the notice in the
21 Illinois Procurement Bulletin; or

22 (C) for a single phase procurement authorized under
23 subsection (a) of Section 25 of this Act, the
24 Transportation Agency has issued a notice of intent to
25 receive proposals, that includes a description of the
26 proposed procurement and transportation facility, at least

1 14 days prior to the issuance of the request for proposals,
2 for a Department issued notice of intent shall publish the
3 notice in the Illinois Transportation Procurement Bulletin
4 and for an Authority issued notice of intent shall publish
5 the notice in the Illinois Procurement Bulletin; and

6 (2) the Transportation Agency shall use its best efforts to
7 ensure that the transportation facility is consistent with the
8 regional plan in existence at the time of any metropolitan
9 planning organization in which the boundaries of the
10 transportation facility is located, or any other
11 publicly-approved plan.

12 Section 25. Procurement process.

13 (a) The Transportation Agency may solicit a proposer with
14 which to enter into a design-build contract or Construction
15 Manager/General Contractor contract, as applicable, by using,
16 without limitation, one or more requests for qualifications,
17 short-listing of the most highly qualified proposers, requests
18 for proposals, and negotiations. The Transportation Agency
19 shall use a two-phase procurement for a design-build contract
20 to select the successful proposer; provided that the
21 Transportation Agency may use a single phase procurement if the
22 transportation facility is estimated to cost less than
23 \$5,000,000 or the Secretary or the Executive Director makes a
24 written determination that the Transportation Agency may use a
25 single phase procurement for a particular transportation

1 facility. In a two-phase procurement, the Transportation
2 Agency shall use the first phase to evaluate and short-list the
3 most highly qualified proposers based on a proposer's
4 qualifications, and then use the second phase to evaluate and
5 select a proposer based on proposals submitted by the
6 short-listed proposers. During the first phase of a two-phase
7 procurement, the Transportation Agency shall not consider
8 price proposals to make its short-list decision. In a single
9 phase procurement, the Transportation Agency shall solicit
10 proposers with a request for proposals, and shall evaluate and
11 select a proposer based on those proposals.

12 (b) The request for qualifications may contain any
13 information deemed appropriate by the Transportation Agency
14 including, without limitation, the following information:

15 (1) the anticipated scope of work for the
16 transportation facility;

17 (2) a requirement that the proposer identify certain
18 key personnel, and for design-build contracts certain key
19 firms, the experience of the personnel and firms, and the
20 conditions on which identified personnel and firms can be
21 replaced;

22 (3) the evaluation criteria for the qualifications and
23 the relative importance of those criteria; these
24 evaluation criteria may address, without limitation, the
25 proposer's technical and financial qualifications, such as
26 specialized experience, technical competence, capability

1 to perform, financial capacity, the proposer's workload,
2 local office presence, past performance, including the
3 proposer's safety record, and any other
4 qualifications-based factors;

5 (4) the Transportation Agency's prequalification,
6 licensing, and registration requirements, including any
7 requirements from the Professional Engineering Practice
8 Act of 1989, the Illinois Architecture Practice Act of
9 1989, the Structural Engineering Practice Act of 1989, and
10 the Illinois Professional Land Surveyor Act of 1989,
11 provided that nothing contained herein precludes the
12 Transportation Agency's use of additional prequalification
13 criteria or pass/fail evaluation factors addressing
14 minimum levels of technical experience or financial
15 capabilities;

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

18 (6) any other relevant information the Transportation
19 Agency deems appropriate.

20 (c) Upon completion of the qualifications evaluation, the
21 Transportation Agency shall, based on the evaluation criteria
22 set forth in the request for qualifications, create a
23 short-list of the most highly qualified proposers. The
24 Transportation Agency shall short-list no more than 5 and no
25 fewer than 2 of the most highly qualified proposers.
26 Notwithstanding other provisions of this subsection (c), the

1 Transportation Agency may short-list fewer than 2 proposers if
2 the Secretary or the Executive Director make a finding that an
3 emergency situation justifies the limited short-listing and
4 fewer than 2 proposers meet any applicable prequalification or
5 pass/fail requirements set forth in the request for
6 qualifications.

7 (d) The request for proposals may contain any information
8 deemed appropriate by the Transportation Agency including,
9 without limitation, the following information:

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

11 (2) the terms of the design-build contract or
12 Construction Manager/General Contractor contract
13 including, but not limited to, scope and performance
14 requirements, schedule or completion date requirements,
15 subcontractor requirements, payment and performance
16 security requirements, and insurance requirements;

17 (3) 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 (4) the requirements for the price component of the
22 proposal, which for Construction Manager/General
23 Contractor contracts may include a requirement for the
24 proposer to submit a lump sum price for the direct costs to
25 perform the required preconstruction services and
26 percentage mark-up on those direct costs;

1 (5) the evaluation criteria for the proposals,
2 including technical criteria, innovation, and schedule,
3 and the relative importance of those criteria, as the
4 Transportation Agency deems appropriate;

5 (6) a process for the Transportation Agency to review
6 and accept Alternative Technical Concepts;

7 (7) requirements regarding the proposer's
8 qualifications; and

9 (8) any other relevant information the Transportation
10 Agency deems appropriate.

11 (e) Prior to the proposers' submittal of proposals, the
12 Transportation Agency may conduct confidential meetings and
13 exchange confidential information with proposers to promote
14 understanding of the request for proposals, review Alternative
15 Technical Concepts, or discuss other issues related to the
16 procurement.

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

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

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

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

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

1 all material requirements of the request for qualifications or
2 request for proposals, as appropriate. The Transportation
3 Agency shall not consider a proposal that does not include:

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

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

10 (j) The Transportation Agency shall consult with the
11 appropriate chief procurement officer on the design-build
12 project delivery method and the Construction Manager/General
13 Contractor project delivery method procurement processes, and
14 the Secretary or the Executive Director, in consultation with
15 the chief procurement officer, shall determine which
16 procedures to adopt and apply to the design-build project
17 delivery method and Construction Manager/General Contractor
18 project delivery method procurement processes in order to
19 ensure an open, transparent, and efficient process that
20 accomplishes the purposes of this Act.

21 Section 30. Evaluation committee.

22 (a) The Transportation Agency shall establish one or more
23 evaluation committees to assist in selecting a design-builder
24 and a Construction Manager/General Contractor. The
25 Transportation Agency shall, in its sole discretion, determine

1 the appropriate size and composition of the evaluation
2 committee, provided that at least half of the committee must be
3 licensed design professionals.

4 (b) The Transportation Agency may establish an evaluation
5 committee for a set term or for the procurement of a particular
6 transportation facility.

7 (c) Once the Transportation Agency identifies the
8 proposers for a transportation facility, each member of an
9 evaluation committee must certify that no conflict of interest
10 exists between the member and the proposers. If the
11 Transportation Agency, after consultation with the chief
12 procurement officer, determines that an actual conflict
13 exists, the member shall not participate on the evaluation
14 committee for that procurement and the Transportation Agency
15 shall appoint a replacement member on either a permanent or
16 temporary basis.

17 Section 35. Procedures for selection. The Transportation
18 Agency shall review, evaluate, score, and rank proposals and
19 determine which proposal offers the best value to the public
20 based on the evaluation criteria set forth in the request for
21 proposals. The Transportation Agency shall award the contract
22 based on this determination. Notwithstanding other provisions
23 of this Section, if for any reason the proposer awarded the
24 contract is unable or unwilling to execute the contract,
25 including the failure of the proposer and the Transportation

1 Agency to successfully complete negotiations, if any, of the
2 contract, the Transportation Agency may award the contract to
3 the proposer whose proposal the Transportation Agency
4 determines offers the public the next best value.

5 Section 40. Project records; confidentiality; public
6 disclosure.

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

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

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

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

23 (3) state the statutory or regulatory basis for the
24 protection;

25 (4) fully comply with the federal Freedom of

1 Information Act and any other applicable provisions of
2 State law, including, but not limited to, the Freedom of
3 Information Act, with respect to information the proposer
4 contends should be exempt from disclosure; and

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

7 (c) Notwithstanding any other provision of law, in order to
8 properly balance the need to maximize competition under this
9 Act with the need to create a transparent procurement process,
10 the qualifications, proposals, and other information and
11 documents submitted by proposers and the Transportation
12 Agency's evaluation records shall not be subject to release or
13 disclosure by the Transportation Agency until execution of the
14 design-build contract or Construction Manager/General
15 Contractor contract, as applicable. If the Transportation
16 Agency terminates the procurement for a transportation
17 facility, the exemption from release or disclosure under this
18 Section shall remain in place until the Transportation Agency
19 re-procures the transportation facility and has entered into a
20 design-build contract or Construction Manager/General
21 Contractor contract, as applicable. However, this exemption
22 shall lapse if the Transportation Agency does not commence the
23 re-procurement of the transportation facility within 5 years of
24 the termination.

25 Section 45. Design-build contract. A design-build contract

1 may include any provisions the Transportation Agency
2 determines are necessary or appropriate, including, but not
3 limited to, provisions regarding the following:

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

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

8 (3) liability for damages and nonperformance;

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

12 (5) the identification of any technical specifications
13 that the design-builder must comply with when developing
14 plans or performing construction work;

15 (6) the procedures for review and approval of the
16 design-builder's plans;

17 (7) required performance and payment security;

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

20 (9) any other terms and conditions the Transportation
21 Agency deems necessary.

22 Section 50. Construction Manager/General Contractor
23 contract.

24 (a) The Construction Manager/General Contractor contract
25 shall divide the Construction Manager/General Contractor

1 services into 2 phases. The first phase shall address
2 preconstruction services and the procedures the parties shall
3 follow to finalize the contract terms for the second phase. The
4 second phase shall address the Construction Manager/General
5 Contractor's construction of the transportation facility for a
6 lump sum or a guaranteed maximum price.

7 (b) A Construction Manager/General Contractor contract
8 shall include provisions regarding the following:

9 (1) the Construction Manager/General Contractor's
10 provision of preconstruction services during the first
11 phase of the contract, including the Construction
12 Manager/General Contractor's compensation for those
13 services;

14 (2) a requirement that, during the first phase of the
15 contract, the Construction Manager/General Contractor
16 shall use a competitive bidding process to procure
17 subcontracts for at least the minimum percentage of
18 construction work specified in the request for proposals,
19 provided that:

20 (A) compliance with this requirement shall be
21 based on an estimated cost for the construction work
22 approved by the Transportation Agency prior to the
23 start of the competitive bidding process; and

24 (B) the Construction Manager/General Contractor
25 may not use subcontracts with its wholly or partially
26 owned subsidiaries, parent companies, or affiliates to

1 satisfy this obligation;

2 (3) the process the Transportation Agency and the
3 Construction Manager/General Contractor shall use to
4 determine a lump sum or guaranteed maximum price for the
5 construction work, which shall include a requirement that
6 the Transportation Agency conduct an independent cost
7 estimate for the construction work; and

8 (4) grounds for termination of the Construction
9 Manager/General Contractor contract, including the
10 Transportation Agency's right to terminate the contract
11 and not proceed with the construction phase of the project
12 if the Transportation Agency and the Construction
13 Manager/General Contractor are unable to negotiate a lump
14 sum or guaranteed maximum price for the construction work.

15 (c) In addition to the provisions under subsection (b) of
16 this Section, a Construction Manager/General Contractor
17 contract may include any other provisions the Transportation
18 Agency determines are necessary or appropriate, including, but
19 not limited to, provisions regarding the following:

20 (1) liability for damages and nonperformance;

21 (2) events of default and the rights and remedies
22 available to the Construction Manager/General Contractor
23 and the Transportation Agency in the event of a default or
24 delay;

25 (3) the identification of any technical specifications
26 that the Construction Manager/General Contractor must

1 comply with when aiding the Transportation Agency with
2 developing plans or performing construction work;

3 (4) required performance and payment security for the
4 construction phase of the contract;

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

7 (6) any other terms and conditions the Transportation
8 Agency deems necessary.

9 (d) If the Construction Manager/General Contractor
10 contract is terminated for any reason, the Transportation
11 Agency may, in its sole discretion, re-advertise the
12 Construction Manager/General Contractor contract under this
13 Act or use any other authorized procurement method to complete
14 the transportation facility or any portion of the
15 transportation facility. Once the contract is terminated, the
16 Transportation Agency may use any work product developed by the
17 Construction Manager/General Contractor to complete the
18 transportation facility.

19 Section 55. Funding and financing.

20 (a) The Transportation Agency may utilize any lawful source
21 of funding and financing to compensate a design-builder and
22 Construction Manager/General Contractor for work and services
23 performed under a design-build contract or Construction
24 Manager/General Contractor contract, as applicable, and the
25 Transportation Agency may combine federal, State, local, and

1 private funds to finance a transportation facility.

2 (b) Subject to appropriation by the General Assembly of the
3 required amounts, the Transportation Agency may obligate and
4 make expenditures of funds as and when needed to satisfy its
5 payment obligations under a design-build contract or
6 Construction Manager/General Contractor contract.

7 Section 56. Utilization requirements. Design-builder and
8 Construction Manager/General Contractor projects shall comply
9 with Section 2-105 of the Illinois Human Rights Act and all
10 applicable laws and rules that establish standards and
11 procedures for the utilization of minority, disadvantaged, and
12 female-owned businesses, including, but not limited to, the
13 Business Enterprise for Minorities, Females, and Persons with
14 Disabilities Act.

15 Section 60. Acquisition of property and related
16 agreements. The Transportation Agency may exercise any and all
17 powers of condemnation or eminent domain, including quick-take
18 powers, to acquire lands or estates or interests in land for a
19 transportation facility under this Act to the extent the
20 Transportation Agency finds that the action serves the public
21 purpose of this Act and deems the action appropriate in the
22 exercise of its powers under this Act. In addition, the
23 Transportation Agency and a design-builder or Construction
24 Manager/General Contractor may enter into leases, licenses,

1 easements, and other grants of property interests that the
2 Transportation Agency determines are necessary to deliver a
3 transportation facility under this Act.

4 Section 65. Federal requirements. In the procurement of
5 design-build contracts and Construction Manager/General
6 Contractor contracts, the Transportation Agency shall, to the
7 extent applicable, comply with federal law and regulations and
8 take all necessary steps to adapt its rules, policies, and
9 procedures to remain eligible for federal aid.

10 Section 70. Powers. The powers granted to the
11 Transportation Agency under this Act, including the power to
12 procure and enter into design-build contracts and Construction
13 Manager/General Contractor contracts, shall be liberally
14 construed to accomplish its purpose, are in addition to any
15 existing powers of the Transportation Agency, and shall not
16 affect or impair any other powers authorized under applicable
17 law.

18 Section 75. Rulemaking.

19 (a) The Illinois Administrative Procedure Act applies to
20 all administrative rules and procedures of the Transportation
21 Agency under this Act, except that nothing in this Act shall be
22 construed to render any prequalification or other
23 responsibility criteria as a "license" or "licensing" under

1 that Act.

2 (b) The appropriate chief procurement officer, in
3 consultation with the Transportation Agency, may adopt rules to
4 carry out the provisions of this Act.

5 Section 905. The Department of Transportation Law of the
6 Civil Administrative Code of Illinois is amended by adding
7 Section 2705-233 as follows:

8 (20 ILCS 2705/2705-233 new)

9 Sec. 2705-233. Design-build and Construction
10 Manager/General Contractor for the transportation
11 infrastructure. The Department may exercise all powers granted
12 to it under the Innovations for Transportation Infrastructure
13 Act, including, but not limited to, the power to enter into all
14 contracts or agreements necessary or incidental to the
15 performance of its powers under that Act, and powers related to
16 any transportation facility implemented under that Act.

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

19 (20 ILCS 3501/825-108 new)

20 Sec. 825-108. Transportation project financing. For the
21 purpose of financing a transportation facility undertaken
22 under the Innovations for Transportation Infrastructure Act,

1 the Authority may apply for an allocation of tax-exempt bond
2 financing authorization provided by subsection (m) of Section
3 142 of the United States Internal Revenue Code, as well as
4 financing available under any other federal law or program.

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

7 (30 ILCS 500/1-10.5 new)

8 Sec. 1-10.5. Alternative Technical Concepts.
9 Notwithstanding subsection (b) of Section 1-10 of this Code,
10 the Department of Transportation and the Illinois State Toll
11 Highway Authority may allow bidders and proposers to submit
12 Alternative Technical Concepts in their bids and proposals,
13 provided the Department or Authority determines that the
14 Alternative Technical Concepts provide an equal or better
15 solution than the underlying technical requirements applicable
16 to the work. Notwithstanding the above, for projects the
17 Department or Authority delivers using the design-bid-build
18 project delivery method, the Department or Authority shall only
19 use the Alternative Technical Concepts process for up to 3
20 projects. If the Department or Authority allows bidders or
21 proposers for a particular contract to submit Alternative
22 Technical Concepts, the Department or Authority shall describe
23 the process for submission and evaluation of Alternative
24 Technical Concepts in the procurement documents for that

1 contract, including the potential use of confidential meetings
2 and the exchange of confidential information with bidders and
3 proposers to review and discuss potential or proposed
4 Alternative Technical Concepts. For the purposes of this
5 Section, the terms "Alternative Technical Concepts" and
6 "design-bid-build project delivery method" have the meanings
7 ascribed to those terms in the Innovations for Transportation
8 Infrastructure Act.

9 Section 920. The Architectural, Engineering, and Land
10 Surveying Qualifications Based Selection Act is amended by
11 adding Section 85 as follows:

12 (30 ILCS 535/85 new)

13 Sec. 85. Design-build and Construction Manager/General
14 Contractor contracts. This Act shall not apply to the
15 procurement of or contracting for transportation facilities
16 using design-build contracts and Construction Manager/General
17 Contractor contracts under the Innovations for Transportation
18 Infrastructure Act.

19 Section 925. The Public Construction Bond Act is amended by
20 adding Section 1.9 as follows:

21 (30 ILCS 550/1.9 new)

22 Sec. 1.9. Design-build contracts and Construction

1 Manager/General Contractor contracts. This Act applies to any
2 design-build contract or Construction Manager/General
3 Contractor contract entered into under the Innovations for
4 Transportation Infrastructure Act.

5 Section 930. The Employment of Illinois Workers on Public
6 Works Act is amended by adding Section 2.8 as follows:

7 (30 ILCS 570/2.8 new)

8 Sec. 2.8. Design build and Construction Manager/General
9 Contractor contracts. This Act applies to any design build
10 contracts and Construction Manager/General Contractor
11 contracts entered into under the Innovations for
12 Transportation Infrastructure Act.

13 Section 931. The Business Enterprise for Minorities,
14 Females, and Persons with Disabilities Act is amended by adding
15 Section 2.8 as follows:

16 (30 ILCS 575/2.8 new)

17 Sec. 2.8. Design build and Construction Manager/General
18 Contractor contracts. This Act applies to any design-build
19 contracts and Construction Manager/General Contractor
20 contracts entered into under the Innovations for
21 Transportation Infrastructure Act.

1 Section 935. The Toll Highway Act is amended by adding
2 Section 11.2 as follows:

3 (605 ILCS 10/11.2 new)

4 Sec. 11.2. Design-build and Construction Manager/General
5 Contractor contracts. The Authority may exercise all powers
6 granted to it under the Innovations for Transportation
7 Infrastructure Act, including, but not limited to, the power to
8 enter into all contracts or agreements necessary to perform its
9 powers under that Act, and any powers related to a
10 transportation facility implemented under that Act.

11 Section 940. The Eminent Domain Act is amended by adding
12 Section 15-5-48 as follows:

13 (735 ILCS 30/15-5-48 new)

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

17 The Innovations for Transportation Infrastructure Act; for
18 the purposes of constructing a transportation facility under
19 the Act.

20 Section 945. The Prevailing Wage Act is amended by changing
21 Section 2 as follows:

1 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

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

8 As used in this Act, unless the context indicates
9 otherwise:

10 "Public works" means all fixed works constructed or
11 demolished by any public body, or paid for wholly or in part
12 out of public funds. "Public works" as defined herein includes
13 all projects financed in whole or in part with bonds, grants,
14 loans, or other funds made available by or through the State or
15 any of its political subdivisions, including but not limited
16 to: bonds issued under the Industrial Project Revenue Bond Act
17 (Article 11, Division 74 of the Illinois Municipal Code), the
18 Industrial Building Revenue Bond Act, the Illinois Finance
19 Authority Act, the Illinois Sports Facilities Authority Act, or
20 the Build Illinois Bond Act; loans or other funds made
21 available pursuant to the Build Illinois Act; loans or other
22 funds made available pursuant to the Riverfront Development
23 Fund under Section 10-15 of the River Edge Redevelopment Zone
24 Act; or funds from the Fund for Illinois' Future under Section
25 6z-47 of the State Finance Act, funds for school construction
26 under Section 5 of the General Obligation Bond Act, funds

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

1 also includes any corrective action performed pursuant to Title
2 XVI of the Environmental Protection Act for which payment from
3 the Underground Storage Tank Fund is requested. "Public works"
4 does not include projects undertaken by the owner at an
5 owner-occupied single-family residence or at an owner-occupied
6 unit of a multi-family residence. "Public works" does not
7 include work performed for soil and water conservation purposes
8 on agricultural lands, whether or not done under public
9 supervision or paid for wholly or in part out of public funds,
10 done directly by an owner or person who has legal control of
11 those lands.

12 "Construction" means all work on public works involving
13 laborers, workers or mechanics. This includes any maintenance,
14 repair, assembly, or disassembly work performed on equipment
15 whether owned, leased, or rented.

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

1 construed to include two or more adjacent counties from which
2 workers may be accessible for work on such construction.

3 "Public body" means the State or any officer, board or
4 commission of the State or any political subdivision or
5 department thereof, or any institution supported in whole or in
6 part by public funds, and includes every county, city, town,
7 village, township, school district, irrigation, utility,
8 reclamation improvement or other district and every other
9 political subdivision, district or municipality of the state
10 whether such political subdivision, municipality or district
11 operates under a special charter or not.

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

21 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;
22 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.
23 7-16-14.)

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

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.".