

AN ACT concerning State government.

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

Section 1. Short title. This Act may be cited as the Public Private Agreements for the Illiana Expressway Act.

Section 5. Legislative findings.

(a) The State of Illinois and the State of Indiana are engaged in collaborative planning efforts to build a new interstate highway connecting Interstate Highway 55 in northeastern Illinois to Interstate Highway 65 in northwestern Indiana to serve the public at large.

(b) The Illiana Expressway will promote development and investment in the State of Illinois and serve as a critical transportation route in the region.

(c) Public private agreements between the State of Illinois and one or more private entities to develop, finance, construct, manage, or operate the Illiana Expressway have the potential of maximizing value and benefit to the People of the State of Illinois and the public at large.

(d) Public private agreements may enable the Illiana Expressway to be developed, financed, constructed, managed, or operated in an entrepreneurial and business-like manner.

(e) In the event the State of Illinois enters into one or

more public private agreements to develop, finance, construct, manage, or operate the Illiana Expressway, the private parties to the agreements should be accountable to the People of Illinois through a comprehensive system of oversight, regulation, auditing, and reporting.

(f) It is the intent of this Act to use Illinois design professionals, construction companies, and workers to the greatest extent permitted by law by offering them the right to compete for this work.

Section 10. Definitions. As used in this Act:

"Agreement" means a public private agreement.

"Contractor" means a person that has been selected to enter or has entered into a public private agreement with the Department on behalf of the State for the development, financing, construction, management, or operation of the Illiana Expressway pursuant to this Act.

"Department" means the Illinois Department of Transportation.

"Illiana Expressway" means the fully access-controlled interstate highway connecting Interstate Highway 55 in northeastern Illinois to Interstate Highway 65 in northwestern Indiana, which may be operated as a toll or non-toll facility.

"Metropolitan planning organization" means a metropolitan planning organization designated under 23 U.S.C. Section 134.

"Offeror" means a person that responds to a request for

proposals under this Act.

"Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or any other legal entity, group, or combination thereof.

"Public private agreement" means an agreement or contract between the Department on behalf of the State and all schedules, exhibits, and attachments thereto, entered into pursuant to a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act, for the development, financing, construction, management, or operation of the Illiana Expressway pursuant to this Act.

"Revenues" means all revenues including but not limited to income; user fees; earnings; interest; lease payments; allocations; moneys from the federal government, the State, and units of local government, including but not limited to federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts arising out of or in connection with the financing, development, construction, management, or operation of the Illiana Expressway.

"State" means the State of Illinois.

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

"Unit of local government" has the meaning ascribed to that term in Article VII, Section 1 of the Constitution of the State of Illinois, and, for purposes of this Act, includes school districts.

"User fees" means the tolls, rates, fees, or other charges imposed by the State or the contractor for use of all or part of the Illiana Expressway.

Section 15. Public private agreement authorized.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State may, pursuant to a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act, enter into one or more public private agreements with one or more contractors to develop, finance, construct, manage, or operate the Illiana Expressway on behalf of the State, and further pursuant to which the contractors may receive certain revenues including user fees in consideration of the payment of moneys to the State for that right.

(b) Before taking any action in connection with the development, financing, maintenance, or operation of the Illiana Expressway that is not authorized by an interim agreement under Section 30 of this Act, a contractor shall enter into a public private agreement.

(c) The term of a public private agreement, including all extensions, shall be no more than 99 years.

(d) The term of a public private agreement may be extended but only if the extension is specifically authorized by the General Assembly by law.

Section 17. Procurement; prequalification. The Department may establish a process for prequalification of offerors. If the Department does create such a process, it shall: (i) provide a public notice of the prequalification at least 30 days prior to the date on which applications are due; (ii) set forth requirements and evaluation criteria in order to become prequalified; (iii) determine which offerors that have submitted prequalification applications, if any, meet the requirements and evaluation criteria; and (iv) allow only those offerors that have been prequalified to respond to the request for proposals.

Section 20. Procurement; request for proposals process.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act.

(b) The competitive request for proposals process shall, at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for proposals process shall, at

a minimum, take into account the following criteria:

(1) The offeror's plans for the Illiana Expressway project;

(2) The offeror's current and past business practices;

(3) The offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating highways or other public assets;

(4) The offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act;

(5) The offeror's ability to comply with and past performance in complying with Section 2-105 of the Illinois Human Rights Act; and

(6) The offeror's plans to comply with the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or

indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select at least 2 offerors as finalists. The Department shall submit the offerors' statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days of the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the Illiana Expressway project until it has received and considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public private agreement and publish notice of the hearing or hearings at least 7 days before the hearing and in accordance with Section 4-219 of the Illinois Highway Code. The notice must include the following:

(1) the date, time, and place of the hearing and the address of the Department;

(2) the subject matter of the hearing;

(3) a description of the agreement that may be awarded;  
and

(4) the recommendation that has been made to select an offeror as the contractor for the Illiana Expressway project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Illiana Expressway project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Illiana Expressway project.

Section 25. Provisions of the public private agreement.

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

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

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

(3) Compensation or payments to the Department;



(4) Compensation or payments to the contractor;

(5) A provision specifying that the Department:

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

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

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

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

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

(8) A requirement that the Department monitor and oversee the contractor's practices and take action that the Department considers appropriate to ensure that the contractor is in compliance with the terms of the public private agreement;

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

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

(10.5) A provision stating that, in the event the contractor finds it necessary, proper, or desirable to enter into subcontracts with one or more design-build entities, then it must follow a selection process that is, to the greatest extent possible, identical to the selection process contained in the Design-Build Procurement Act;

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

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

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

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

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

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

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

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

(19) A requirement that the contractor enter into a project labor agreement pursuant to Section 100 of this Act;

(19.5) A provision stating that construction

contractors shall comply with the requirements of Section 30-22 of the Illinois Procurement Code pursuant to Section 100 of this Act;

(20) Timelines, deadlines, and scheduling;

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

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

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

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

(25) Procedures for amendment to the agreement.

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

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

(2) Cash reserves requirements;

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

(4) Maintenance of public liability insurance;

(5) Maintenance of self-insurance;

(6) Provisions governing grants and loans, pursuant to

which the Department may agree to make grants or loans for the development, financing, construction, management, or operation of the Illiana Expressway project from time to time from amounts received from the federal government or any agency or instrumentality of the federal government or from any State or local agency;

(7) Reimbursements to the Department for work performed and goods, services, and equipment provided by the Department; and

(8) All other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest.

Section 30. Interim agreements.

(a) Prior to or in connection with the negotiation of the public private agreement, the Department may enter into an interim agreement with the contractor.

(b) The interim agreement may not authorize the contractor to perform construction work prior to the execution of the public private agreement.

(c) The interim agreement may include any or all of the following:

(1) Timelines, deadlines, and scheduling;

(2) Compensation including the payment of costs and fees in the event the Department terminates the interim agreement or declines to proceed with negotiation of the

public private agreement;

(3) A provision governing the contractor's authority to commence activities related to the Illiana Expressway project including but not limited to project planning, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, surveying, conducting studies including revenue and transportation studies, and ascertaining the availability of financing;

(4) Procurement procedures;

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

(6) All other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest.

(d) The Department may enter into one or more interim agreements with one or more contractors if the Department determines in writing that it is in the public interest to do so.

Section 35. Termination of the Public Private Agreement. The Department may terminate a public private agreement or interim agreement under Section 30 of this Act if the contractor or any executive employee of the contractor is found guilty of any criminal offense related to the conduct of its business or the regulation thereof in any jurisdiction. For

purposes of this Section, an "executive employee" is the President, Chairman, Chief Executive Officer, or Chief Financial Officer; any employee with executive decision-making authority over the long-term or day-to-day affairs of the contractor; or any employee whose compensation or evaluation is determined in whole or in part by the award of the public private agreement.

Section 40. Public private agreement proceeds. After the payment of all transaction costs, including payments for legal, accounting, financial, consultation, and other professional services, all moneys received by the State as compensation for the public private agreement shall be deposited into the Illiana Expressway Proceeds Fund, which is hereby created as a special fund in the State treasury. Expenditures may be made from the Fund only in the manner as appropriated by the General Assembly by law.

Section 45. User fees. No user fees may be imposed by the contractor except as set forth in the public private agreement.

Section 47. Selection of professional design firms. Notwithstanding any provision of law to the contrary, the selection of professional design firms by the Department or the contractor shall comply with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

Section 50. Other contracts. The Department may, pursuant to the Illinois Procurement Code and rules adopted under that Code, award contracts for goods, services, or equipment to persons other than the contractor for goods, services, or equipment not provided for in the public private agreement.

Section 55. Planning for the Illiana Expressway project. The Illiana Expressway project shall be subject to all applicable planning requirements otherwise required by law, including land use planning, regional planning, transportation planning, and environmental compliance requirements.

Section 60. Illinois Department of Transportation; reporting requirements and information requests.

(a) The Department shall submit written monthly progress reports to the Procurement Policy Board and the General Assembly on the Illiana Expressway project. The report shall include the status of any public private agreements or other contracting and any ongoing or completed studies. The Procurement Policy Board may determine the format for the written monthly progress reports.

(b) The Department shall also respond promptly in writing to all inquiries and comments of the Procurement Policy Board with respect to any conduct taken by the Department to implement, execute, or administer the provisions of this Act.



(c) Upon request, the Department shall appear and testify before the Procurement Policy Board and produce information requested by the Procurement Policy Board.

(d) At least 30 days prior to the beginning of the Department's fiscal year, the Department shall prepare an annual written progress report on the Illiana Expressway project. The report shall include the status of any public private agreements or other contracting and any ongoing or completed studies. The report shall be delivered to the Procurement Policy Board and each county, municipality, and metropolitan planning organization whose territory includes or lies within 5 miles from a proposed or existing Illiana Expressway project site.

Section 65. Illinois Department of Transportation; publication requirements.

(a) The Department shall publish a notice of the execution of the public private agreement on its website and in a newspaper of general circulation within the county or counties whose territory includes or lies within 5 miles from a proposed or existing Illiana Expressway project site.

(b) The Department shall publish the full text of the public private agreement on its website.

Section 70. Electronic toll collection systems. Any electronic toll collection system used on the Illiana

Expressway must be compatible with the electronic toll collection system used by the Illinois State Toll Highway Authority.

Section 75. Independent audits. If the public private agreement provides for the construction of all or part of the Illiana Expressway project and the estimated construction costs under the agreement exceed \$50,000,000, the Department must also require the contractor to finance an independent audit of any and all traffic and cost estimates associated with the agreement as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the agreement, failure by the contractor to reimburse the Department for services provided, and potential risk and liability in the event of default on the agreement or default on other types of financing). The independent audit must be conducted by an independent consultant selected by the Department.

Section 80. Property acquisition. The Department may acquire property for the Illiana Expressway project using the powers granted to it in the Illinois Highway Code. The Department may not exercise the power of quick take in connection with the Illiana Expressway project.

Section 85. Rights of the Illinois Department of Transportation upon expiration or termination of the agreement.

(a) Upon the termination or expiration of the public private agreement, including a termination for default, the Department shall have the right to take over the Illiana Expressway project and to succeed to all of the right, title, and interest in the Illiana Expressway project, subject to any liens on revenues previously granted by the contractor to any person providing financing for the Illiana Expressway project.

(b) If the Department elects to take over the Illiana Expressway project as provided in subsection (a) of this Section, the Department may, without limitation, do the following:

(1) develop, finance, construct, maintain, or operate the project, including through another public private agreement entered into in accordance with this Act; or

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

(c) If the Department elects to take over the Illiana Expressway project as provided in subsection (a) of this Section, the Department may, without limitation, use the revenues, if any, for any lawful purpose, including to:

(1) make payments to individuals or entities in connection with any financing of the Illiana Expressway project;

(2) permit a contractor or third party to receive some or all of the revenues under the public private agreement entered into under this Act;

(3) pay development costs of the Illiana Expressway;

(4) pay current operation costs of the Illiana Expressway; and

(5) pay the contractor for any compensation or payment owing upon termination.

(d) All real property acquired as a part of the Illiana Expressway shall be held in the name of the State of Illinois upon termination of the Illiana Expressway project.

(e) The full faith and credit of the State or any political subdivision of the State or the Department is not pledged to secure any financing of the contractor by the election to take over the Illiana Expressway project. Assumption of development or operation, or both, of the Illiana Expressway project does not obligate the State or any political subdivision of the State or the Department to pay any obligation of the contractor.

Section 90. Standards for the Illiana Expressway project.

(a) The plans and specifications for the Illiana Expressway project must comply with:

(1) the Department's standards for other projects of a similar nature or as otherwise provided in the public private agreement;

(2) the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, the Illinois Architecture Practice Act of 1989, and the Illinois Professional Land Surveyor Act of 1989; and

(3) any other applicable State or federal standards.

(b) The Illiana Expressway constructed is considered to be part of the State highway system for purposes of identification, maintenance standards, and enforcement of traffic laws under the jurisdiction of the Department. The Department shall establish performance based standards for financial documents related to the Illiana Expressway.

Section 95. Financial arrangements.

(a) The Department may apply for, execute, or endorse applications submitted by contractors and other third parties to obtain federal, State, or local credit assistance to develop, finance, maintain, or operate the Illiana Expressway project.

(b) The Department may take any action to obtain federal, State, or local assistance for the Illiana Expressway project that serves the public purpose of this Act and may enter into any contracts required to receive the federal assistance. The Department may determine that it serves the public purpose of this Act for all or any portion of the costs of the Illiana Expressway project to be paid, directly or indirectly, from the proceeds of a grant or loan, line of credit, or loan guarantee

made by a local, State, or federal government or any agency or instrumentality of a local, State, or federal government. Such assistance may include, but not be limited to, federal credit assistance pursuant to the Transportation Infrastructure Finance and Innovation Act (TIFIA).

(c) The Department may agree to make grants or loans for the development, financing, construction, management, or operation of the Illiana Expressway project from time to time, from amounts received from the federal, State, or local government or any agency or instrumentality of the federal, State, or local government.

(d) Any financing of the Illiana Expressway project may be in the amounts and subject to the terms and conditions contained in the public private agreement.

(e) For the purpose of financing the Illiana Expressway project, the contractor and the Department may do the following:

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

(2) enter into grant agreements;

(3) access any other funds available to the Department;

and

(4) accept grants from any public or private agency or entity.

(f) For the purpose of financing the Illiana Expressway project, public funds may be used and mixed and aggregated with

funds provided by or on behalf of the contractor or other private entities.

(g) For the purpose of financing the Illiana Expressway project, the Department is authorized to apply for, execute, or endorse applications for an allocation of tax-exempt bond financing authorization provided by Section 142(m) of the United States Internal Revenue Code, as well as financing available under any other federal law or program.

(h) Any bonds, debt, or other securities or other financing issued for the purposes of this Act shall not be deemed to constitute a debt of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State.

Section 100. Labor.

(a) The public private agreement shall require the contractor to enter into a project labor agreement.

(b) The public private agreement shall require all construction contractors to comply with the requirements of Section 30-22 of the Illinois Procurement Code as they apply to responsible bidders and to present satisfactory evidence of that compliance to the Department, unless the Illiana Expressway project is federally funded and the application of those requirements would jeopardize the receipt or use of federal funds in support of the Illiana Expressway project.

Section 105. Law enforcement.

(a) All law enforcement officers of the State and of each affected local jurisdiction have the same powers and jurisdiction within the boundaries of the Illiana Expressway as they have in their respective areas of jurisdiction.

(b) Law enforcement officers shall have access to the Illiana Expressway at any time for the purpose of exercising the law enforcement officers' powers and jurisdiction.

(c) The traffic and motor vehicle laws of the State of Illinois or, if applicable, any local jurisdiction shall be the same as those applying to conduct on highways in the State of Illinois or the local jurisdiction.

(d) Punishment for infractions and offenses shall be as prescribed by law for conduct occurring on highways in the State of Illinois or the local jurisdiction.

Section 110. Term of agreement; reversion of property to the Department.

(a) The Department shall terminate the contractor's authority and duties under the public private agreement on the date set forth in the public private agreement.

(b) Upon termination of the public private agreement, the authority and duties of the contractor under this Act cease, except for those duties and obligations that extend beyond the termination, as set forth in the public private agreement, and all interests in the Illiana Expressway shall revert to the



Department.

Section 115. Additional powers of the Department with respect to the Illiana Expressway.

(a) The Department may exercise any powers provided under this Act in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation. The Department shall cooperate with other governmental entities under this Act.

(b) The Department may make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of the Department's powers under this Act. Except as otherwise required by law, these contracts or agreements are not subject to any approvals other than the approval of the Department, Governor, or federal agencies.

(c) The Department may pay the costs incurred under the public private agreement entered into under this Act from any funds available to the Department for the purpose of the Illiana Expressway under this Act or any other statute.

(d) The Department or other State agency may not take any action that would impair the public private agreement entered into under this Act, except as provided by law.

(e) The Department may enter into an agreement between and among the contractor, the Department, and the Department of State Police concerning the provision of law enforcement

assistance with respect to the Illiana Expressway under this Act.

(f) The Department is authorized to enter into arrangements with the Illinois State Police related to costs incurred in providing law enforcement assistance under this Act.

Section 120. Prohibited local action; home rule. A unit of local government, including a home rule unit, may not take any action that would have the effect of impairing the public private agreement under this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 125. Powers liberally construed. The powers conferred by this Act shall be liberally construed in order to accomplish their purposes and shall be in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Act, this Act is controlling as to any public private agreement entered into under this Act.

Section 130. Full and complete authority. This Act contains full and complete authority for agreements and leases with private entities to carry out the activities described in this Act. Except as otherwise required by law, no procedure, proceedings, publications, notices, consents, approvals,

orders, or acts by the Department or any other State or local agency or official are required to enter into an agreement or lease.

Section 135. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 905. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Section 2705-220 as follows:

(20 ILCS 2705/2705-220 new)

Sec. 2705-220. Public private partnerships for transportation. The Department may exercise all powers granted to it under the Public Private Agreements for the Illiana Expressway Act.

Section 910. The Illinois Finance Authority Act is amended by adding Section 825-105 as follows:

(20 ILCS 3501/825-105 new)

Sec. 825-105. Illiana Expressway financing. For the purpose of financing the Illiana Expressway under the Public Private Agreements for the Illiana Expressway Act, the Authority is authorized to apply for an allocation of tax-exempt bond financing authorization provided by Section

142(m) of the United States Internal Revenue Code, as well as financing available under any other federal law or program.

Section 915. The State Finance Act is amended by adding Section 5.755 as follows:

(30 ILCS 105/5.755 new)

Sec. 5.755. The Illiana Expressway Proceeds Fund.

Section 920. The Public Construction Bond Act is amended by adding Section 1.5 as follows:

(30 ILCS 550/1.5 new)

Sec. 1.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.

Section 925. The Employment of Illinois Workers on Public Works Act is amended by adding Section 2.5 as follows:

(30 ILCS 570/2.5 new)

Sec. 2.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.

Section 930. The Business Enterprise for Minorities,

Females, and Persons with Disabilities Act is amended by adding Section 2.5 as follows:

(30 ILCS 575/2.5 new)

Sec. 2.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.

Section 935. The Retailers' Occupation Tax Act is amended by adding Section 1q as follows:

(35 ILCS 120/1q new)

Sec. 1q. Building materials exemption; Illiana Expressway public private partnership.

(a) Each retailer that makes a qualified sale of building materials to be incorporated into the Illiana Expressway as defined in the Public Private Agreements for the Illiana Expressway Act, by remodeling, rehabilitating, or new construction, may deduct receipts from those sales when calculating the tax imposed by this Act.

(b) As used in this Section, "qualified sale" means a sale of building materials that will be incorporated into the Illiana Expressway for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the Illinois Department of Transportation, which has authority over the project.

(c) To document the exemption allowed under this Section,

the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the Illinois Department of Transportation, which has jurisdiction over the project into which the building materials will be incorporated is located. The Certificate of Eligibility for Sales Tax Exemption must contain all of the following:

(1) statement that the project identified in the Certificate meets all the requirements of the Illinois Department of Transportation;

(2) the location or address of the project; and

(3) the signature of the Secretary of the Illinois Department of Transportation, which has authority over the Illiana Expressway or the Secretary's delegate.

(d) In addition to meeting the requirements of subsection (c) of this Act, the retailer must obtain a certificate from the purchaser that contains all of the following:

(1) a statement that the building materials are being purchased for incorporation into the Illiana Expressway in accordance with the Public Private Agreements for the Illiana Expressway Act;

(2) the location or address of the project into which the building materials will be incorporated;

(3) the name of the project;

(4) a description of the building materials being purchased; and

(5) the purchaser's signature and date of purchase.

(e) This Section is exempt from Section 2-70 of this Act.

Section 940. The Property Tax Code is amended by changing Section 15-55 as follows:

(35 ILCS 200/15-55)

Sec. 15-55. State property.

(a) All property belonging to the State of Illinois is exempt. However, the State agency holding title shall file the certificate of ownership and use required by Section 15-10, together with a copy of any written lease or agreement, in effect on March 30 of the assessment year, concerning parcels of 1 acre or more, or an explanation of the terms of any oral agreement under which the property is leased, subleased or rented.

The leased property shall be assessed to the lessee and the taxes thereon extended and billed to the lessee, and collected in the same manner as for property which is not exempt. The lessee shall be liable for the taxes and no lien shall attach to the property of the State.

For the purposes of this Section, the word "leases" includes licenses, franchises, operating agreements and other arrangements under which private individuals, associations or corporations are granted the right to use property of the Illinois State Toll Highway Authority and includes all property of the Authority used by others without regard to the size of

the leased parcel.

(b) However, all property of every kind belonging to the State of Illinois, which is or may hereafter be leased to the Illinois Prairie Path Corporation, shall be exempt from all assessments, taxation or collection, despite the making of any such lease, if it is used for:

(1) conservation, nature trail or any other charitable, scientific, educational or recreational purposes with public benefit, including the preserving and aiding in the preservation of natural areas, objects, flora, fauna or biotic communities;

(2) the establishment of footpaths, trails and other protected areas;

(3) the conservation of the proper use of natural resources or the promotion of the study of plant and animal communities and of other phases of ecology, natural history and conservation;

(4) the promotion of education in the fields of nature, preservation and conservation; or

(5) similar public recreational activities conducted by the Illinois Prairie Path Corporation.

No lien shall attach to the property of the State. No tax liability shall become the obligation of or be enforceable against Illinois Prairie Path Corporation.

(c) If the State sells the James R. Thompson Center or the Elgin Mental Health Center and surrounding land located at 750



S. State Street, Elgin, Illinois, as provided in subdivision (a)(2) of Section 7.4 of the State Property Control Act, to another entity whose property is not exempt and immediately thereafter enters into a leaseback or other agreement that directly or indirectly gives the State a right to use, control, and possess the property, that portion of the property leased and occupied exclusively by the State shall remain exempt under this Section. For the property to remain exempt under this subsection (c), the State must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the State.

If the property has been conveyed as described in this subsection (c), the property is no longer exempt pursuant to this Section as of the date when:

(1) the right of the State to use, control, and possess the property has been terminated; or

(2) the State no longer has an option to purchase or otherwise acquire the property and there is no provision for a reverter of the property to the State within the limitations period for reverters.

Pursuant to Sections 15-15 and 15-20 of this Code, the State shall notify the chief county assessment officer of any transaction under this subsection (c). The chief county assessment officer shall determine initial and continuing compliance with the requirements of this Section for tax exemption. Failure to notify the chief county assessment

officer of a transaction under this subsection (c) or to otherwise comply with the requirements of Sections 15-15 and 15-20 of this Code shall, in the discretion of the chief county assessment officer, constitute cause to terminate the exemption, notwithstanding any other provision of this Code.

(c-1) If the Illinois State Toll Highway Authority sells the Illinois State Toll Highway Authority headquarters building and surrounding land, located at 2700 Ogden Avenue, Downers Grove, Illinois as provided in subdivision (a)(2) of Section 7.5 of the State Property Control Act, to another entity whose property is not exempt and immediately thereafter enters into a leaseback or other agreement that directly or indirectly gives the State or the Illinois State Toll Highway Authority a right to use, control, and possess the property, that portion of the property leased and occupied exclusively by the State or the Authority shall remain exempt under this Section. For the property to remain exempt under this subsection (c), the Authority must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the Authority.

If the property has been conveyed as described in this subsection (c), the property is no longer exempt pursuant to this Section as of the date when:

(1) the right of the State or the Authority to use, control, and possess the property has been terminated; or

(2) the Authority no longer has an option to purchase

or otherwise acquire the property and there is no provision for a reverter of the property to the Authority within the limitations period for reverters.

Pursuant to Sections 15-15 and 15-20 of this Code, the Authority shall notify the chief county assessment officer of any transaction under this subsection (c). The chief county assessment officer shall determine initial and continuing compliance with the requirements of this Section for tax exemption. Failure to notify the chief county assessment officer of a transaction under this subsection (c) or to otherwise comply with the requirements of Sections 15-15 and 15-20 of this Code shall, in the discretion of the chief county assessment officer, constitute cause to terminate the exemption, notwithstanding any other provision of this Code.

(d) The fair market rent of each parcel of real property in Will County owned by the State of Illinois for the purpose of developing an airport by the Department of Transportation shall include the assessed value of leasehold tax. The lessee of each parcel of real property in Will County owned by the State of Illinois for the purpose of developing an airport by the Department of Transportation shall not be liable for the taxes thereon. In order for the State to compensate taxing districts for the leasehold tax under this paragraph the Will County Supervisor of Assessments shall certify, in writing, to the Department of Transportation, the amount of leasehold taxes extended for the 2002 property tax year for each such exempt

parcel. The Department of Transportation shall pay to the Will County Treasurer, from the Tax Recovery Fund, on or before July 1 of each year, the amount of leasehold taxes for each such exempt parcel as certified by the Will County Supervisor of Assessments. The tax compensation shall terminate on December 31, 2020. It is the duty of the Department of Transportation to file with the Office of the Will County Supervisor of Assessments an affidavit stating the termination date for rental of each such parcel due to airport construction. The affidavit shall include the property identification number for each such parcel. In no instance shall tax compensation for property owned by the State be deemed delinquent or bear interest. In no instance shall a lien attach to the property of the State. In no instance shall the State be required to pay leasehold tax compensation in excess of the Tax Recovery Fund's balance.

(e) Public Act 81-1026 applies to all leases or agreements entered into or renewed on or after September 24, 1979.

(f) Notwithstanding anything to the contrary in this Code, all property owned by the State that is the Illiana Expressway, as defined in the Public Private Agreements for the Illiana Expressway Act, and that is used for transportation purposes and that is leased for those purposes to another entity whose property is not exempt shall remain exempt, and any leasehold interest in the property shall not be subject to taxation under Section 9-195 of this Act.

(Source: P.A. 95-331, eff. 8-21-07; 96-192, eff. 8-10-09.)

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

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

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

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

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act; loans or other funds made available pursuant to the Build Illinois Act; or funds from the

Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes (i) all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement and (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence.

"Construction" means all work on public works involving

laborers, workers or mechanics. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

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

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

The terms "general prevailing rate of hourly wages",

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

(Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

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