

AN ACT concerning transportation.

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

Section 5. The Public Private Agreements for the Illiana Expressway Act is amended by changing Sections 25, 80, and 95 as follows:

(605 ILCS 130/25)

Sec. 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, if applicable;

(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.

(Source: P.A. 96-913, eff. 6-9-10.)

(605 ILCS 130/80)

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

(Source: P.A. 96-913, eff. 6-9-10.)

(605 ILCS 130/95)

Sec. 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 by or on behalf of a contractor for the purposes of a project undertaken pursuant to 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.

(Source: P.A. 96-913, eff. 6-9-10.)

Section 10. The Eminent Domain Act is amended by changing Section 15-5-35 as follows:

(735 ILCS 30/15-5-35)

Sec. 15-5-35. Eminent domain powers in ILCS Chapters 605 through 625. The following provisions of law may include

express grants of the power to acquire property by condemnation or eminent domain:

(605 ILCS 5/4-501); Illinois Highway Code; Department of Transportation and counties; for highway purposes.

(605 ILCS 5/4-502); Illinois Highway Code; Department of Transportation; for ditches and drains.

(605 ILCS 5/4-505); Illinois Highway Code; Department of Transportation; for replacement of railroad and public utility property taken for highway purposes.

(605 ILCS 5/4-509); Illinois Highway Code; Department of Transportation; for replacement of property taken for highway purposes.

(605 ILCS 5/4-510); Illinois Highway Code; Department of Transportation; for rights-of-way for future highway purposes.

(605 ILCS 5/4-511); Illinois Highway Code; Department of Transportation; for relocation of structures taken for highway purposes.

(605 ILCS 5/5-107); Illinois Highway Code; counties; for county highway relocation.

(605 ILCS 5/5-801); Illinois Highway Code; counties; for highway purposes.

(605 ILCS 5/5-802); Illinois Highway Code; counties; for ditches and drains.

(605 ILCS 5/6-309); Illinois Highway Code; highway

commissioners or county superintendents; for township or road district roads.

(605 ILCS 5/6-801); Illinois Highway Code; highway commissioners; for road district or township roads.

(605 ILCS 5/6-802); Illinois Highway Code; highway commissioners; for ditches and drains.

(605 ILCS 5/8-102); Illinois Highway Code; Department of Transportation, counties, and municipalities; for limiting freeway access.

(605 ILCS 5/8-103); Illinois Highway Code; Department of Transportation, counties, and municipalities; for freeway purposes.

(605 ILCS 5/8-106); Illinois Highway Code; Department of Transportation and counties; for relocation of existing crossings for freeway purposes.

(605 ILCS 5/9-113); Illinois Highway Code; highway authorities; for utility and other uses in rights-of-ways.

(605 ILCS 5/10-302); Illinois Highway Code; counties; for bridge purposes.

(605 ILCS 5/10-602); Illinois Highway Code; municipalities; for ferry and bridge purposes.

(605 ILCS 5/10-702); Illinois Highway Code; municipalities; for bridge purposes.

(605 ILCS 5/10-901); Illinois Highway Code; Department of Transportation; for ferry property.

(605 ILCS 10/9); Toll Highway Act; Illinois State Toll Highway

- Authority; for toll highway purposes.
- (605 ILCS 10/9.5); Toll Highway Act; Illinois State Toll Highway Authority; for its authorized purposes.
- (605 ILCS 10/10); Toll Highway Act; Illinois State Toll Highway Authority; for property of a municipality or political subdivision for toll highway purposes.
- (605 ILCS 115/14); Toll Bridge Act; counties; for toll bridge purposes.
- (605 ILCS 115/15); Toll Bridge Act; counties; for the purpose of taking a toll bridge to make it a free bridge.
- (605 ILCS 130/80); Public Private Agreements for the Illiana Expressway Act; Department of Transportation; for the Illiana Expressway project.
- (610 ILCS 5/17); Railroad Incorporation Act; railroad corporation; for real estate for railroad purposes.
- (610 ILCS 5/18); Railroad Incorporation Act; railroad corporations; for materials for railways.
- (610 ILCS 5/19); Railroad Incorporation Act; railways; for land along highways.
- (610 ILCS 70/1); Railroad Powers Act; purchasers and lessees of railroad companies; for railroad purposes.
- (610 ILCS 115/2 and 115/3); Street Railroad Right of Way Act; street railroad companies; for street railroad purposes.
- (615 ILCS 5/19); Rivers, Lakes, and Streams Act; Department of Natural Resources; for land along public waters for pleasure, recreation, or sport purposes.

(615 ILCS 10/7.8); Illinois Waterway Act; Department of Natural Resources; for waterways and appurtenances.

(615 ILCS 15/7); Flood Control Act of 1945; Department of Natural Resources; for the purposes of the Act.

(615 ILCS 30/9); Illinois and Michigan Canal Management Act; Department of Natural Resources; for dams, locks, and improvements.

(615 ILCS 45/10); Illinois and Michigan Canal Development Act; Department of Natural Resources; for development and management of the canal.

(620 ILCS 5/72); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for airport purposes.

(620 ILCS 5/73); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for removal of airport hazards.

(620 ILCS 5/74); Illinois Aeronautics Act; Division of Aeronautics of the Department of Transportation; for airport purposes.

(620 ILCS 25/33); Airport Zoning Act; Division of Aeronautics of the Department of Transportation; for air rights.

(620 ILCS 40/2 and 40/3); General County Airport and Landing Field Act; counties; for airport purposes.

(620 ILCS 40/5); General County Airport and Landing Field Act; counties; for removing hazards.

(620 ILCS 45/6 and 45/7); County Airport Law of 1943; boards of

directors of airports and landing fields; for airport and landing field purposes.

(620 ILCS 50/22 and 50/31); County Airports Act; counties; for airport purposes.

(620 ILCS 50/24); County Airports Act; counties; for removal of airport hazards.

(620 ILCS 50/26); County Airports Act; counties; for acquisition of airport protection privileges.

(620 ILCS 52/15); County Air Corridor Protection Act; counties; for airport zones.

(620 ILCS 55/1); East St. Louis Airport Act; Department of Transportation; for airport in East St. Louis metropolitan area.

(620 ILCS 65/15); O'Hare Modernization Act; Chicago; for the O'Hare modernization program, including quick-take power.

(625 ILCS 5/2-105); Illinois Vehicle Code; Secretary of State; for general purposes.

(625 ILCS 5/18c-7501); Illinois Vehicle Code; rail carriers; for railroad purposes, including quick-take power.

(Source: P.A. 94-1055, eff. 1-1-07.)

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