CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 105

Citations Affected: IC 2-5-28; IC 8-14; IC 8-15.7; IC 8-23-27.

Synopsis: Transportation. Requires the Indiana department of transportation (INDOT) to conduct a feasibility study regarding implementation of a commuter rail system with service from Muncie to Indianapolis. Authorizes INDOT to apply for any federal grants available for conducting the study. Establishes the joint study committee on mass transit and transportation alternatives (committee). Provides that the committee consists of the members of: (1) the senate standing committee on homeland security, transportation, and veterans affairs; and (2) the house of representatives standing committee on roads and transportation. Provides that the committee shall operate under the policies governing study committees adopted by the legislative council. Provides that INDOT shall commission six studies on mass transit in Indiana by region by December 1, 2007, and that the studies must be completed by January 1, 2009. Adds passenger and freight railroad systems to the definition of "project" for purposes of public-private agreements by INDOT. Provides that "project", for purposes of public-private agreements by INDOT, does not include a passenger railroad system that is operated by the Northern Indiana Commuter Transportation District. Specifies that INDOT may enter into a public-private agreement for a project consisting of a passenger or freight railroad system, subject to review and appropriation by the general assembly. Specifies that INDOT is not prohibited from conducting preliminary studies or issuing a request for qualifications or a request for proposals for such a project. Provides that passenger and freight railroad systems projects may not receive funds from the major moves construction fund. Establishes the alternative transportation construction fund for funding passenger and freight railroad system projects under public-private agreements by INDOT. Requires INDOT to submit an annual report to the legislative council on efforts concerning the development, financing, or operation of freight railroad systems through public-private agreements. Creates a legislative review committee for proposals concerning the Illiana Expressway and requires INDOT to perform an independent study concerning the Illiana Expressway. **(This conference committee report: (1) specifies that INDOT may enter into a public-private agreement for a project consisting of a passenger or freight railroad system, subject to review and appropriation by the general assembly; (2) specifies that INDOT is not prohibited from conducting preliminary studies or issuing a request for qualifications or a request for proposals for such a project; (3) creates a legislative review**

committee for proposals concerning the Illiana Expressway and requires INDOT to perform an independent study concerning the Illiana Expressway; and (4) requires INDOT to conduct a feasibility study regarding implementation of a commuter rail system with service from Muncie to Indianapolis.)

Effective: Upon passage; July 1, 2007.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 105 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 28. Joint Study Committee on Mass Transit and Transportation Alternatives

Sec. 1. As used in this chapter, "committee" refers to the joint study committee on mass transit and transportation alternatives.

Sec. 2. The joint study committee on mass transit and transportation alternatives is established.

Sec. 3. The committee has the following membership:

(1) The members of the standing senate committee on homeland security, transportation, and veterans affairs.

(2) The members of the house of representatives standing committee on roads and transportation.

Sec. 4. The chairs of the standing committees specified in section 3(1) and 3(2) of this chapter shall serve as co-chairs of the committee.

Sec. 5. The committee shall do the following:

(1) Review Indiana department of transportation studies regarding mass transit that have been conducted by the department.

(2) Review federal legislative activity regarding development and expansion of mass transit as well as revenue streams on the federal level.

(3) Review mass transit initiatives of other states.

Sec. 6. The committee shall report on and make recommendations concerning the following issues:

(1) The need to use mass transit to mitigate traffic congestion.

(2) Ways to address the demand for workforce transportation that are reliable and secure.

(3) Ways to eliminate barriers to investment in mass transit created by the current structure of transportation funding.

(4) Existing barriers to private investment in mass transit facilities, including tax inequities.

(5) Effective ways of leveraging funding under federal programs to supplement state funding of mass transit.

(6) The relationship between land use and investment in mass transit infrastructure.

(7) The role that mass transit plays in promoting economic growth, improving the environment, and sustaining the quality of life.

Sec. 7. The legislative services agency and the Indiana department of transportation shall provide support staff for the committee.

Sec. 8. The committee shall operate under the policies governing study committees adopted by the legislative council.

SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),** under IC 8-15.7 or IC 8-15-3;

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.
(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.
(5) Revenues arising from:
(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or
(B) a toll road under IC 8-15-2 or IC 8-23-7-23;
that the department designates as part of, and deposits in, the fund.
(6) Payments, **other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),** made to the authority or the department from operators under IC 8-15.7.
(7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) **Except as provided in subsection (b),** the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.
(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.
(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 17. Alternative Transportation Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this

chapter.

Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:

(1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and

(2) funding distributions under section 5 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Appropriations to the fund.

(2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).

(4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 5. Money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to

the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(c) Notwithstanding subsection (b) or any other law, the department or the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and appropriation by the general assembly. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.

SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a)** Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).

(2) A tollway.

(3) Roads and bridges.

(4) Passenger and freight railroad systems, including:

(A) the costs of environmental impact studies;

(B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or class; and

(C) other costs that the department determines are necessary to develop a passenger or freight railroad system in Indiana.

~~(4)~~ **(5)** All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance

plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) ~~(2), and (3).~~ **through (4).**

~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.

SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54; ~~or~~

(3) alternative transportation construction fund established under IC 8-14-17; or

~~(3)~~ **(4)** operator or the authority for debt reduction.

SECTION 8. IC 8-23-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Illiana Expressway

Sec. 1. As used in this chapter, "committee" refers to the Illiana expressway proposal review committee established by section 4 of this chapter.

Sec. 2. As used in this chapter, "Illiana expressway" refers to a new interstate quality highway connecting Interstate Highway 57 in Illinois to Interstate Highway 65 in Indiana.

Sec. 3. As used in this chapter, "study" refers to the study described in section 14 of this chapter.

Sec. 4. The Illiana expressway proposal review committee is established.

Sec. 5. (a) The committee consists of eight (8) voting members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be from the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be from the same political party, to be appointed by the speaker of the house of representatives.

(b) At least two (2) of the members appointed under subsection (a)(1) and at least two (2) of the members appointed under subsection (a)(2) must represent a district that encompasses all or part of Lake County.

(c) A vacancy on the committee shall be filled by the appointing authority.

(d) Initial appointments to the committee must be made before July 1, 2007.

Sec. 6. (a) The president pro tempore of the senate shall appoint a member of the committee to serve as chairperson of the committee from January 1 through December 31 of odd-numbered years.

(b) The speaker of the house of representatives shall appoint a member of the committee to serve as chairperson of the committee from January 1 through December 31 of even-numbered years.

Sec. 7. The committee shall do the following:

(1) Take and review the study presented to the committee under section 14 of this chapter, testimony, and other information provided to the committee by the Indiana department of transportation, other state agencies or federal agencies, and the public concerning the proposed Illiana expressway project.

(2) Prepare a report to be submitted to the governor and to the legislative council in an electronic format under IC 5-14-6 regarding the committee's determination of whether the proposed Illiana expressway project is recommended by the committee.

Sec. 8. The committee shall meet at the call of the chairperson.

Sec. 9. (a) Except as provided in subsection (b), the committee shall operate under the policies governing study committees adopted by the legislative council, including the requirement of filing an annual report in an electronic format under IC 5-14-6.

(b) The committee may meet at any time during the calendar year.

Sec. 10. (a) Five (5) members of the committee constitute a quorum.

(b) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure.

Sec. 11. The legislative services agency shall provide staff support for the committee.

Sec. 12. Each member of the committee appointed under this chapter is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

Sec. 13. Representatives of the Indiana department of transportation shall testify before the committee upon request of the chairperson.

Sec. 14. The department shall conduct an independent study to:

(1) perform a needs assessment of an Illiana expressway; and

(2) identify a highway alignment corridor for an Illiana

expressway.

The department may use any part of a study conducted before April 29, 2007, to comply with this section.

Sec. 15. (a) Before July 1, 2009, the department shall present a report to:

(1) the members of the committee in an electronic format under IC 5-14-6; and

(2) the governor;

that presents the findings of the study conducted under section 14 of this chapter and includes sufficient background for the members of the committee and the governor to evaluate the findings presented in the study.

(b) The report required by subsection (a) must include at least the following:

(1) A description of the need for an Illiana expressway.

(2) An evaluation concerning the feasibility of an Illiana expressway, including the following:

(A) Projections for acquisition costs and eminent domain issues.

(B) Expected use of the proposed expressway and any toll revenues.

(C) Expected construction costs.

(D) Expected operating and maintenance costs.

(E) Options for funding acquisition, construction, operation, and maintenance costs.

(3) A description of the department's recommended route for an Illiana expressway, including the following:

(A) Traffic projections showing expected use and relief of traffic congestion.

(B) Alternative routes.

(C) Economic impact studies on the proposed route and affected areas.

(4) Any other information that is necessary or appropriate to assist the general assembly in evaluating the Illiana expressway project.

Sec. 16. The department may pay for the study conducted under section 14 of this chapter from any funds available to the department. The amount expended for the study may not exceed one million dollars ($1,000,000).

SECTION 9. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.**

(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, and operation;

of passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), as amended by this act, through public-private agreements.

(c) This SECTION expires July 1, 2012.

SECTION 10. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "department" refers to the Indiana department of transportation established by IC 8-23-2-1.**

(b) Before December 1, 2007, the department shall commission six (6) studies concerning mass transit in each of the following regions:

(1) Central Indiana, consisting of the following counties:

(A) Boone.

(B) Delaware.

(C) Hamilton.

(D) Hancock.

(E) Hendricks.

(F) Johnson.

(G) Madison.

(H) Marion.

(I) Monroe.

(J) Morgan.

(K) Shelby.

(2) Northwest Indiana.

(3) Northeast Indiana.

(4) South central Indiana, including Monroe County.

(5) Southwest Indiana.

(6) Southeast Indiana.

(c) Each of the studies specified in subsection (b) must analyze the following aspects of mass transit systems:

(1) The need to use public transportation to mitigate traffic congestion on a statewide basis.

(2) Ways to address the demand for workforce transportation that are reliable and secure.

(3) Ways to eliminate barriers to investment in public transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in public transportation facilities, including tax inequities.

(5) Effective ways of leveraging federal programs to supplement state funding of public transportation.

(6) The relationship between land use and investment in public transportation infrastructure on a statewide basis.

(7) The role that public transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

(8) Policies required to develop a mass transit system to support a growing population and the state's economy for the foreseeable future.

(9) Transit oriented development.

(10) Impact of mass transit on projected demographic patterns, including age populations.

(11) Current and future commuter patterns in the identified counties.

(12) Current trends in mass transit on a statewide basis.

(13) A review of federal activities in the area of mass transit on a statewide basis.

(14) Funding options for pilot mass transit and alternative transit systems.

(d) The department shall require winning bidders for the studies required by subsection (b) to submit final reports by January 1, 2009.

(e) The department shall transmit the results of the studies required by subsection (b) to the public and, in an electronic format under IC 5-14-6, to the general assembly and governor on or about January 1, 2009. If a winning bidder produces intermediate reports in the course of conducting a study, the department shall also transmit in a timely manner the results of those intermediate reports to the public and, in an electronic format under IC 5-14-6, to the general assembly and the governor.

(f) The department shall pay for the studies required by subsection (b) from money under the department's control, including money held in the following funds or accounts:

(1) Federal highway account.

(2) Federal transit account.

(3) State planning and research fund.

(4) State's portion of the public mass transit fund.

(g) This SECTION expires December 31, 2009.

SECTION 11. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the Indiana department of transportation.**

(b) The department shall commission a study of the feasibility and implementation of a commuter rail system with service from Muncie to Indianapolis and from Indianapolis to Bloomington. The study:

(1) must address the feasibility and implementation of stops in Anderson, Noblesville, Fishers, Indianapolis, and Bloomington; and

(2) may address the feasibility and implementation of additional stops.

(c) The study required by this SECTION must include the following information:

(1) Potential routes for the commuter rail system.

(2) An estimate of costs associated with implementing the commuter rail system.

(3) An estimate of the number of potential riders.

(4) An estimate of the effect on existing transportation systems.

(5) Any other relevant issues that may affect the implementation of a commuter rail system.

(d) The department may apply for any grants or enter into agreements with the Federal Transit Administration in accordance with 49 U.S.C. 5301 et seq. to complete the study.

(e) The department shall submit, not later than August 30, 2008, a copy of the results of the study in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(f) This SECTION expires December 31, 2008.

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 105 as reprinted April 6, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 105

Signed by:

Senator Kenley Chairperson	Representative Austin
Senator Lanane	Representative Soliday
Senate Conferees	**House Conferees**