
SENATE BILL No. 291

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-15-3-9; IC 8-15.5-1-2; IC 8-15.7; IC 8-23-7-22.

Synopsis: Illiana Expressway. For purposes of the statute concerning tollways, permits the designation of the Illiana Expressway (instead of a part of Interstate Highway 69) as a tollway. For purposes of the statute governing public-private agreements concerning toll roads, deletes the prohibition against a public-private agreement (without legislative authorization) that would permit an operator to impose tolls for the operation of motor vehicles. For purposes of the statute governing public-private agreements by the department of transportation: (1) authorizes a public-private agreement for the Illiana Expressway (instead of a part of Interstate Highway 69); and (2) provides that if all or part of a project to be carried out by a public-private agreement will consist of a tollway, the draft version of the request for proposals for that project must require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, and deletes the current authority for offerors to submit alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway. For purposes of the statute governing the designation of state highways as tollways, permits the designation of the Illiana Expressway (instead of a part of Interstate Highway 69) as a tollway without legislative authorization.

Effective: July 1, 2007.

Landske, Wyss

January 11, 2007, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 291



A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-15-3-9, AS AMENDED BY P.L.47-2006,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 9. (a) Subject to subsection (e), the governor must
4 approve the location of any tollway.

5 (b) The department may, in any combination, plan, design, develop,
6 construct, reconstruct, maintain, repair, police, finance, and operate
7 tollways, public improvements, and arterial streets and roads at those
8 locations that the governor approves.

9 (c) The department may, in any combination, plan, design, develop,
10 construct, reconstruct, improve, finance, operate, repair, or maintain
11 public improvements such as roads and streets, sewer lines, water lines,
12 and other utilities if these improvements are:

- 13 (1) adjacent or appurtenant to a tollway; or
- 14 (2) necessary or desirable for the financing, construction,
15 operation, or maintenance of a tollway.

16 (d) The department may, in any combination, plan, design, develop,
17 construct, reconstruct, improve, maintain, repair, operate, or finance



1 the construction or reconstruction of an arterial highway or an arterial
2 street that:

- 3 (1) is adjacent to, appurtenant to, or interchanges with a tollway;
- 4 or
- 5 (2) intersects with a road or street that interchanges with a
- 6 tollway.

7 (e) Notwithstanding any other law, the governor, the department, or
8 an operator may not carry out any of the following activities under this
9 chapter unless the general assembly enacts a statute authorizing that
10 activity:

11 (1) Approve the location of a tollway, other than ~~Interstate~~
12 ~~Highway 69 between Interstate Highway 64 and a city having a~~
13 ~~population of more than eleven thousand five hundred (11,500)~~
14 ~~but less than eleven thousand seven hundred forty (11,740): the~~
15 **Illiana Expressway, a limited access facility connecting**
16 **Interstate Highway 94 in northwestern Indiana with**
17 **Interstate Highway 57 in Illinois.**

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

21 (3) Impose tolls on motor vehicles for use of the part of an
22 interstate highway that connects a consolidated city and a city
23 having a population of more than eleven thousand five hundred
24 (11,500) but less than eleven thousand seven hundred forty
25 (11,740).

26 SECTION 2. IC 8-15.5-1-2, AS ADDED BY P.L.47-2006,
27 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2007]: Sec. 2. (a) This article contains full and complete
29 authority for public-private agreements between the authority and a
30 private entity. Except as provided in this article, no law, procedure,
31 proceeding, publication, notice, consent, approval, order, or act by the
32 authority or any other officer, department, agency, or instrumentality
33 of the state or any political subdivision is required for the authority to
34 enter into a public-private agreement with a private entity under this
35 article, or for a toll road project that is the subject of a public-private
36 agreement to be constructed, acquired, maintained, repaired, operated,
37 financed, transferred, or conveyed.

38 (b) Notwithstanding any other law, after August 1, 2006, neither the
39 authority nor the department may:

- 40 (1) issue a request for proposals for; or
- 41 (2) enter into;
- 42 a public-private agreement under this article that would authorize an

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1 operator to impose tolls for the operation of motor vehicles on all or
2 part of a project, unless the general assembly adopts a statute
3 authorizing the imposition of tolls.

4 (c) (b) Notwithstanding any other law, neither the authority nor an
5 operator may carry out any of the following activities under this article
6 unless the general assembly enacts a statute authorizing that activity:

7 (1) Carrying out construction for Interstate Highway 69 in a
8 township having a population of more than seventy-five thousand
9 (75,000) and less than ninety-three thousand five hundred
10 (93,500).

11 (2) Imposing tolls on motor vehicles for use of the part of an
12 interstate highway that connects a consolidated city and a city
13 having a population of more than eleven thousand five hundred
14 (11,500) but less than eleven thousand seven hundred forty
15 (11,740).

16 SECTION 3. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006,
17 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2007]: Sec. 5. (a) This article contains full and complete
19 authority for agreements and leases with private entities to carry out the
20 activities described in this article. Except as provided in this article, no
21 procedure, proceeding, publication, notice, consent, approval, order, or
22 act by the authority, the department, or any other state or local agency
23 or official is required to enter into an agreement or lease, and no law to
24 the contrary affects, limits, or diminishes the authority for agreements
25 and leases with private entities, except as provided by this article.

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

30 (1) Issuing a request for proposals for, or entering into, a
31 public-private agreement concerning a project other than
32 ~~Interstate Highway 69 between Interstate Highway 465 and~~
33 ~~Interstate Highway 64: the Illiana Expressway, a limited access~~
34 **facility connecting Interstate Highway 94 in northwestern**
35 **Indiana with Interstate Highway 57 in Illinois.**

36 (2) Carrying out construction for Interstate Highway 69 in a
37 township having a population of more than seventy-five thousand
38 (75,000) and less than ninety-three thousand five hundred
39 (93,500).

40 (3) Imposing user fees on motor vehicles for use of the part of an
41 interstate highway that connects a consolidated city and a city
42 having a population of more than eleven thousand five hundred

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1 (11,500) but less than eleven thousand seven hundred forty
 2 (11,740).
 3 SECTION 4. IC 8-15.7-4-2, AS ADDED BY P.L.47-2006,
 4 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2007]: Sec. 2. (a) This section establishes the competitive
 6 proposal procedure that the department shall use to enter into a
 7 public-private agreement with an operator under this article.
 8 (b) The department may pursue a competitive proposal procedure
 9 using a request for qualifications and a request for proposals process or
 10 proceed directly to a request for proposals.
 11 (c) If the department elects to use a request for qualifications phase,
 12 it must provide a public notice of the request for qualifications, for the
 13 period considered appropriate by the department, before the date set for
 14 receipt of submittals in response to the solicitation. The department
 15 shall provide the notice by posting in a designated public area and
 16 publication in a newspaper of general circulation, in the manner
 17 provided by IC 5-3-1. In addition, submittals in response to the
 18 solicitation may be solicited directly from potential offerors.
 19 (d) The department shall evaluate qualification submittals based on
 20 the requirements and evaluation criteria set forth in the request for
 21 qualifications.
 22 (e) If the department has undertaken a request for qualifications
 23 phase resulting in one (1) or more prequalified or shortlisted offerors,
 24 the request for proposals shall be limited to those offerors that have
 25 been prequalified or shortlisted.
 26 (f) If the department has not issued a request for qualifications and
 27 intends to use only a one (1) phase request for proposals procurement,
 28 the department must provide a public notice of the request for
 29 proposals for the period considered appropriate by the department,
 30 before the date set for receipt of proposals. The department shall
 31 provide the notice by posting in a designated public area and
 32 publication in a newspaper of general circulation, in the manner
 33 provided by IC 5-3-1. In addition, proposals may be solicited directly
 34 from potential offerors.
 35 (g) The department shall submit a draft of the request for proposals
 36 to the budget committee for its review before the issuance by the
 37 department of the request for proposals to potential offerors. The
 38 request for proposals must:
 39 (1) indicate in general terms the scope of work, goods, and
 40 services sought to be procured;
 41 (2) contain or incorporate by reference the specifications and
 42 contractual terms and conditions applicable to the procurement

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- 1 and the qualifying project;
- 2 (3) specify the factors, criteria, and other information that will be
- 3 used in evaluating the proposals;
- 4 (4) specify any requirements or goals for use of:
 - 5 (A) minority business enterprises and women's business
 - 6 enterprises certified under IC 4-13-16.5;
 - 7 (B) disadvantaged business enterprises under federal or state
 - 8 law;
 - 9 (C) businesses defined under IC 5-22-15-20.5 as Indiana
 - 10 businesses, to the extent permitted by applicable federal and
 - 11 state law and regulations; and
 - 12 (D) businesses that qualify for a small business set-aside under
 - 13 IC 4-13.6-2-11;
- 14 (5) if all or part of the project will consist of a tollway, require any
- 15 offeror to submit a proposal based upon that part of the project
- 16 that will consist of a tollway, as set forth in the request for
- 17 proposals; ~~and permit any offeror to submit one (1) or more~~
- 18 ~~alternative proposals based upon the assumption that a different~~
- 19 ~~part or none of the project will consist of a tollway;~~
- 20 (6) contain or incorporate by reference the other applicable
- 21 contractual terms and conditions; and
- 22 (7) contain or incorporate by reference any other provisions,
- 23 materials, or documents that the department considers
- 24 appropriate.
- 25 (h) The department shall determine the evaluation criteria that are
- 26 appropriate for each project and shall set those criteria forth in the
- 27 request for proposals. The department may use a selection process that
- 28 results in selection of the proposal offering the best value to the public,
- 29 a selection process that results in selection of the proposal offering the
- 30 lowest price or cost or the highest payment to, or revenue sharing with,
- 31 the department, or any other selection process that the department
- 32 determines is in the best interests of the state and the public.
- 33 (i) The department shall evaluate proposals based on the
- 34 requirements and evaluation criteria set forth in the request for
- 35 proposals.
- 36 (j) The department may select one (1) or more offerors for
- 37 negotiations based on the evaluation criteria set forth in the request for
- 38 proposals. If the department believes that negotiations with the selected
- 39 offeror or offerors are not likely to result in a public-private agreement,
- 40 or, in the case of a best value selection process, no longer reflect the
- 41 best value to the state and the public, the department may commence
- 42 negotiations with other responsive offerors, if any, and may suspend,

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1 terminate, or continue negotiations with the original offeror or offerors.
2 If negotiations are unsuccessful, the department shall terminate the
3 procurement, may not award the public-private agreement, and may
4 commence a new procurement for a public-private agreement. If the
5 department determines that negotiations with an offeror have been
6 successfully completed, the department shall, subject to the other
7 requirements of this article, award the public-private agreement to the
8 offeror.

9 (k) Before awarding a public-private agreement to an operator, the
10 department shall schedule a public hearing on the proposed
11 public-private agreement and publish notice of the hearing one (1) time
12 in accordance with IC 5-3-1 at least seven (7) days before the hearing.
13 The notice must include the following:

- 14 (1) The date, time, and place of the hearing.
- 15 (2) The subject matter of the hearing.
- 16 (3) A description of the agreement to be awarded.
- 17 (4) The recommendation that has been made to award the
- 18 agreement to an identified offeror or offerors.
- 19 (5) The address and telephone number of the department.

20 (l) At the hearing, the department shall allow the public to be heard
21 on the proposed public-private agreement.

22 (m) When the terms and conditions of multiple awards are specified
23 in the request for proposals, awards may be made to more than one (1)
24 offeror.

25 SECTION 5. IC 8-23-7-22, AS AMENDED BY P.L.47-2006,
26 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2007]: Sec. 22. (a) Subject to subsection (b), the department
28 may, after issuing an order and receiving the governor's approval,
29 determine that a state highway should become a tollway. After the
30 order becomes effective, the department shall maintain and operate the
31 tollway and levy and collect tolls as provided in IC 8-15-3 or enter into
32 a public-private agreement with an operator with respect to the tollway
33 under IC 8-15.7. Before issuing an order under this section, the
34 department shall submit to the governor a plan to bring the tollway to
35 the current design standards of the department for new state highways
36 within a specified period. The specified period may not exceed five (5)
37 years.

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

- 42 (1) Determine that a highway, other than ~~Interstate Highway 69~~

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1 between Interstate Highway 64 and a city having a population of
2 more than eleven thousand five hundred (11,500) but less than
3 eleven thousand seven hundred forty (11,740); **the Illiana**
4 **Expressway, a limited access facility connecting Interstate**
5 **Highway 94 in northwestern Indiana with Interstate Highway**
6 **57 in Illinois,** should become a tollway.
7 (2) Carry out construction for Interstate Highway 69 in a township
8 having a population of more than seventy-five thousand (75,000)
9 and less than ninety-three thousand five hundred (93,500).
10 (3) Impose tolls on motor vehicles for use of the part of an
11 interstate highway that connects a consolidated city and a city
12 having a population of more than eleven thousand five hundred
13 (11,500) but less than eleven thousand seven hundred forty
14 (11,740).

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