



January 22, 2010

## SENATE BILL No. 382

DIGEST OF SB 382 (Updated January 19, 2010 2:02 pm - DI 71)

**Citations Affected:** IC 8-15; IC 8-15.5; IC 8-15.7; IC 8-23.

**Synopsis:** Illiana Expressway. For purposes of statutes concerning approval of the location of a tollway or the designation of a state highway as a tollway, allows the designation of the Illiana Expressway as a tollway (current law prohibits such a designation without legislative authorization). For purposes of the statutes governing public-private agreements by the Indiana finance authority or the department of transportation concerning toll roads or tollways, authorizes a public-private agreement for a project concerning the Illiana Expressway (current law prohibits such an agreement without legislative authorization) that would permit an operator to impose tolls for the operation of motor vehicles. Specifies that the common construction wage statute applies to a project for the Illiana Expressway.

**Effective:** July 1, 2010.

**Charbonneau, Wyss, Rogers,  
Arnold, Randolph**

January 12, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.  
January 21, 2010, amended, reported favorably — Do Pass.

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SB 382—LS 7028/DI 44+



January 22, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## SENATE BILL No. 382

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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, 2010]: 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

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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:
  - 12 (A) Interstate Highway 69 between Interstate Highway 64 and
  - 13 a city having a population of more than eleven thousand five
  - 14 hundred (11,500) but less than eleven thousand seven hundred
  - 15 forty (11,740); or

16 **(B) the Illiana Expressway, a limited access facility**  
17 **connecting Interstate Highway 65 in northwestern Indiana**  
18 **with an interstate highway in Illinois.**

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

- 22 (3) Impose tolls on motor vehicles for use of the part of an
- 23 interstate highway that connects a consolidated city and a city
- 24 having a population of more than eleven thousand five hundred
- 25 (11,500) but less than eleven thousand seven hundred forty
- 26 (11,740).

27 SECTION 2. IC 8-15.5-1-2, AS ADDED BY P.L.47-2006,  
28 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2010]: Sec. 2. (a) This article contains full and complete  
30 authority for public-private agreements between the authority and a  
31 private entity. Except as provided in this article, no law, procedure,  
32 proceeding, publication, notice, consent, approval, order, or act by the  
33 authority or any other officer, department, agency, or instrumentality  
34 of the state or any political subdivision is required for the authority to  
35 enter into a public-private agreement with a private entity under this  
36 article, or for a toll road project that is the subject of a public-private  
37 agreement to be constructed, acquired, maintained, repaired, operated,  
38 financed, transferred, or conveyed.

39 (b) **This subsection does not apply to a project for the**  
40 **construction of the Illiana Expressway, a limited access facility**  
41 **connecting Interstate Highway 65 in northwestern Indiana with an**  
42 **interstate highway in Illinois.** Notwithstanding any other law, after

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1 August 1, 2006, neither the authority nor the department may:  
 2 (1) issue a request for proposals for; or  
 3 (2) enter into;  
 4 a public-private agreement under this article that would authorize an  
 5 operator to impose tolls for the operation of motor vehicles on all or  
 6 part of a project, unless the general assembly adopts a statute  
 7 authorizing the imposition of tolls.

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

11 (1) Carrying out construction for Interstate Highway 69 in a  
 12 township having a population of more than seventy-five thousand  
 13 (75,000) and less than ninety-three thousand five hundred  
 14 (93,500).

15 (2) Imposing tolls on motor vehicles for use of the part of an  
 16 interstate highway that connects a consolidated city and a city  
 17 having a population of more than eleven thousand five hundred  
 18 (11,500) but less than eleven thousand seven hundred forty  
 19 (11,740).

20 SECTION 3. IC 8-15.5-6-2, AS ADDED BY P.L.47-2006,  
 21 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2010]: Sec. 2. **(a)** Unless otherwise provided by federal law  
 23 **or this section**, the operator or any contractor or subcontractor of the  
 24 operator engaged in the construction of a toll road project is not  
 25 required to comply with IC 4-13.6 or IC 5-16 concerning state public  
 26 works, IC 5-17 concerning purchases of materials and supplies, or  
 27 other statutes concerning procedures for procurement of public works  
 28 or personal property as a condition of being awarded and performing  
 29 work on the project.

30 **(b) IC 5-16-7 concerning the common construction wage applies**  
 31 **to the operator or any contractor or subcontractor of the operator**  
 32 **engaged in a project for the construction of the Illiana Expressway,**  
 33 **a limited access facility connecting Interstate Highway 65 in**  
 34 **northwestern Indiana with an interstate highway in Illinois.**

35 SECTION 4. IC 8-15.7-1-5, AS AMENDED BY P.L.203-2007,  
 36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2010]: Sec. 5. (a) This article contains full and complete  
 38 authority for agreements and leases with private entities to carry out the  
 39 activities described in this article. Except as provided in this article, no  
 40 procedure, proceeding, publication, notice, consent, approval, order, or  
 41 act by the authority, the department, or any other state or local agency  
 42 or official is required to enter into an agreement or lease, and no law to

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

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

7 (1) Issuing a request for proposals for, or entering into, a  
8 public-private agreement concerning a project other than:

9 (A) Interstate Highway 69 between Interstate Highway 465  
10 and Interstate Highway 64; or

11 (B) **the Illiana Expressway, a limited access facility**  
12 **connecting Interstate Highway 65 in northwestern Indiana**  
13 **with an interstate highway in Illinois.**

14 (2) Carrying out construction for Interstate Highway 69 in a  
15 township having a population of more than seventy-five thousand  
16 (75,000) and less than ninety-three thousand five hundred  
17 (93,500).

18 (3) Imposing user fees on motor vehicles for use of the part of an  
19 interstate highway that connects a consolidated city and a city  
20 having a population of more than eleven thousand five hundred  
21 (11,500) but less than eleven thousand seven hundred forty  
22 (11,740).

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

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

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

33 SECTION 5. IC 8-15.7-6-2, AS ADDED BY P.L.47-2006,  
34 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2010]: Sec. 2. (a) Unless otherwise provided by federal law  
36 or this section, the operator or any contractor or subcontractor of the  
37 operator engaged in the construction of a project is not required to  
38 comply with IC 4-13.6 or IC 5-16 concerning state public works,  
39 IC 5-17 concerning purchases of materials and supplies, or other  
40 statutes concerning procedures for procurement of public works or  
41 personal property as a condition of being awarded and performing work  
42 on the project.

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1           **(b) IC 5-16-7 concerning the common construction wage applies**  
2 **to the operator or any contractor or subcontractor of the operator**  
3 **engaged in a project for the construction of the Illiana Expressway,**  
4 **a limited access facility connecting Interstate Highway 65 in**  
5 **northwestern Indiana with an interstate highway in Illinois.**

6           SECTION 6. IC 8-23-7-22, AS AMENDED BY P.L.47-2006,  
7 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2010]: Sec. 22. (a) Subject to subsection (b), the department  
9 may, after issuing an order and receiving the governor's approval,  
10 determine that a state highway should become a tollway. After the  
11 order becomes effective, the department shall maintain and operate the  
12 tollway and levy and collect tolls as provided in IC 8-15-3 or enter into  
13 a public-private agreement with an operator with respect to the tollway  
14 under IC 8-15.7. Before issuing an order under this section, the  
15 department shall submit to the governor a plan to bring the tollway to  
16 the current design standards of the department for new state highways  
17 within a specified period. The specified period may not exceed five (5)  
18 years.

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

- 23           (1) Determine that a highway, other than:
  - 24           **(A) Interstate Highway 69 between Interstate Highway 64 and**
  - 25           **a city having a population of more than eleven thousand five**
  - 26           **hundred (11,500) but less than eleven thousand seven hundred**
  - 27           **forty (11,740); or**
  - 28           **(B) the Illiana Expressway, a limited access facility**
  - 29           **connecting Interstate Highway 65 in northwestern Indiana**
  - 30           **with an interstate highway in Illinois;**
  - 31           should become a tollway.
  - 32           (2) Carry out construction for Interstate Highway 69 in a township
  - 33           having a population of more than seventy-five thousand (75,000)
  - 34           and less than ninety-three thousand five hundred (93,500).
  - 35           (3) Impose tolls on motor vehicles for use of the part of an
  - 36           interstate highway that connects a consolidated city and a city
  - 37           having a population of more than eleven thousand five hundred
  - 38           (11,500) but less than eleven thousand seven hundred forty
  - 39           (11,740).

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 382, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 18, delete "Interstate Highway 55" and insert "**an interstate highway**".

Page 2, line 42, delete "Interstate Highway 55" and insert "**an interstate highway**".

Page 3, line 34, delete "Interstate Highway 55" and insert "**an interstate highway**".

Page 4, line 13, delete "Interstate Highway 55" and insert "**an interstate highway**".

Page 5, line 5, delete "Interstate Highway 55" and insert "**an interstate highway**".

Page 5, line 30, delete "Interstate Highway 55" and insert "**an interstate highway**".

and when so amended that said bill do pass.

(Reference is to SB 382 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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